

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION**

REGINALD E. JONES, JR.,

Petitioner,

v.

DARRYL FORTÉ, Jackson County Sheriff;
and DIANA TURNER, Director of the
Jackson County Department of Corrections,

Respondents.

Case No. 4:19-CV-00483-DGK

PETITIONER'S EXCERPTS OF THE STATE COURT RECORD

The pending Petition for Writ of Habeas Corpus concerns ongoing state-court proceedings in *State of Missouri v. Reginald E. Jones, Jr.*, cause number 1716-CR05241-01. Petitioner believes portions of the state-court record are necessary for a full and fair adjudication of his Petition. As stated in his Emergency Motion for Stay (Doc. 3), Petitioner believes the transcripts from June 12, 2019, and June 13, 2019, are critical; they were not complete when the Petition was filed. Having received the final portion of those transcripts on June 26, 2019, Petitioner hereby provides to this Court relevant excerpts of the state-court record.

Respectfully submitted,

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CIRCUIT COURT OF JACKSON COUNTY, MO

BY

INSTRUCTION NO. A

Today's trial for which you have been called for jury service is a criminal case. The State of Missouri has charged that the defendant, Reginald Jones, Jr., has committed the offenses of Count I: Murder in the First Degree, Count II: Armed Criminal Action, Count III: Murder in the First Degree, and Count IV: Armed Criminal Action. The defendant has pleaded not guilty to the charges. Thus, there are issues of fact that must be decided by a jury, subject to instructions concerning the law, that the Court will give to the jury. The jury is obligated to follow those instructions.

A trial of a criminal case begins with the selection of a jury of qualified and impartial people. In order to obtain such a jury, all of you have been summoned as prospective jurors. From your number, a jury will be selected to hear the case.

It is necessary that you be asked various questions. Your answers will assist the Court in determining whether it should excuse you from serving in this case and will assist the attorneys in making their selection of those who will hear the case. Thus, the questions, that will be asked of you, are not meant to pry into your personal affairs. Rather they are a necessary part of the process of selecting a jury.

Since this is an important part of the trial, you are required to be sworn before questions are asked. Please rise now and be sworn to answer questions.

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[The panel will be sworn.]

Please listen carefully to all questions. Take your time in answering questions. Some of the questions may require you to recall experiences during your entire lifetime. Therefore, search your memory before answering. If you do not understand the question, raise your hand and say so. If, later on, during the examination, you remember something that you failed to answer before, or that would modify an answer you gave before, raise your hand and you will be asked about it. Your answers must not only be truthful but they must be full and complete. If your answer to any of these questions involves matters that are personal or private, you may so indicate and you will be given an opportunity to state your answer at the bench.

The trial of a lawsuit involves considerable time and effort, and the parties are entitled to have their rights finally determined. The failure on your part fully and truthfully to answer questions during this stage of the trial could force the parties to have to retry the lawsuit at some future date.

The Court will now read to you an instruction on the law applicable to all criminal cases.

The charge of any offense is not evidence, and it creates no inference that any offense was committed or that the defendant is guilty of an offense.

The defendant is presumed to be innocent unless and until, during your deliberations upon your verdict, you find him guilty. This presumption of innocence

places upon the state the burden of proving beyond a reasonable doubt that the defendant is guilty.

A reasonable doubt is a doubt based upon reason and common sense after careful and impartial consideration of all the evidence in the case.

Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant's guilt. The law does not require proof that overcomes every possible doubt. If, after your consideration of all the evidence, you are firmly convinced that the defendant is guilty of the crime charged, you will find him guilty. If you are not so convinced, you must give him the benefit of the doubt and find him not guilty.

Is there any of you who, if selected as a juror, could not, for any reason, follow that instruction? If so, would you please raise your hand.

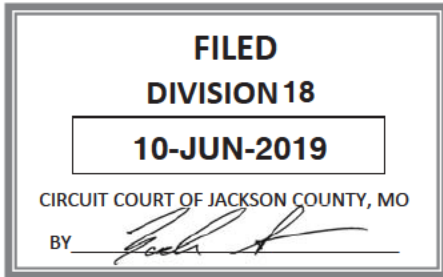
It is your duty to follow the law as the Court gives it to you in the instructions even though you may disagree with it. Are there any of you who would not be willing to follow all instructions that the Court will give to the jury? If so, would you please raise your hand.

(Introduce the attorneys and ask such additional questions as the Court deems appropriate.)

The prosecutor will question you first and then counsel for the defendant will question you.

Counsel for the state may proceed.

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INSTRUCTION NO. B

It is the court's duty to instruct you now upon a matter about which you will be reminded at each recess or adjournment of court. Until this case is given to you to decide, you must not discuss any subject connected with the trial among yourselves, or form or express any opinion about it, and, until you are discharged as jurors, you must not talk with others about the case, or permit them to discuss it with you or in your hearing. You should not e-mail, text, blog, instant message or use any other form of communication regarding the case or anyone involved in the case until the trial has ended and you have been discharged as a juror. It is important that your decision be based only on the evidence presented to you in the proceedings in the courtroom. You should not do any research or investigation on your own regarding any matter involved in this case. For example, you should not consult books, dictionaries, the Internet or talk to a person you consider knowledgeable. You should not read, view, or listen to any newspaper, radio, electronic communications from the Internet or television report of the trial.

The bailiff and other officers of the court are not permitted to talk to you about any subject connected with the trial, and you are not permitted to talk to them about it.

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The attorneys representing the state and the defendant are under a duty not to do anything that may even seem improper. Therefore, at recesses and adjournments they will avoid saying anything to the jury except, perhaps, something like “Good morning” or “Good afternoon.” In doing that they do not mean to be unfriendly, but are simply doing their best to avoid even an appearance, that might be misunderstood, that they or you are doing anything improper.

The same applies to witnesses and to the defendant. They have been or will be instructed to avoid all contacts with the jury, even to talk about matters wholly unrelated to the case.

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BY 

INSTRUCTION NO. C

The court again reminds you of what you were told at the first recess of the court. Until you retire to consider your verdict, you must not discuss this case among yourselves or with others, or permit anyone to discuss it in your hearing. You should not form or express any opinion about the case until it is finally given to you to decide. Do not do any research or investigation on your own about any matter regarding this case or anyone involved with the trial. Do not communicate with others about the case by any means. Do not read, view, or listen to any newspaper, radio, electronic communication from the Internet or television report of the trial.

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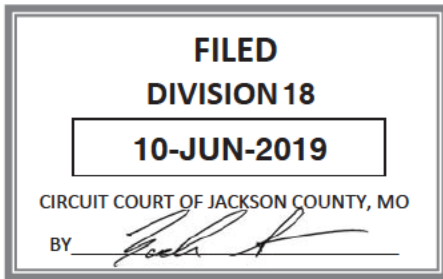
BY



INSTRUCTION NO. D

Until you retire to consider your verdict as to punishment, you must not discuss this case among yourselves or with others, or permit anyone to discuss it in your hearing. Do not do any research or investigation on your own about any matter regarding this case or anyone involved with the trial. Do not communicate with others about the case by any means. Do not read, view, or listen to any newspaper, radio, electronic communication from the Internet or television report of the trial.

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INSTRUCTION NO. E

This case will proceed in the following order:

First, the Court will read to you two instructions concerning the law applicable to this case and its trial. Next, the attorney for the state must make an opening statement outlining what the attorney expects the state's evidence will be. The attorney for the defendant is not required to make an opening statement then or at any other time. However, if the attorney chooses to do so, she may make an opening statement after that of the state, or the attorney may reserve her opening statement until the conclusion of the state's evidence.

Evidence will then be introduced.

At the conclusion of all of the evidence, further instructions in writing concerning the law will be read to you by the Court, after which the attorneys may make their arguments. You will then be given the written instructions of the Court to take with you to your jury room. You will go to that room, select a foreperson, deliberate, and arrive at your verdict.

If you find the defendant guilty in this first stage of the trial, a second stage of the trial will be held. During the second stage, additional instructions will be read to you by the court, additional evidence may be presented, and the attorneys will make their arguments as to punishment. With the additional instructions of the court, you will return to the jury room, deliberate, and determine the punishment to be assessed.

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Sometimes there are delays or conferences out of your hearing with the attorneys about matters of law. There are good reasons for these delays and conferences. The Court is confident that you will be patient and understanding. We will have recesses from time to time.

The following two instructions of law are for your guidance in this case. The two of them, along with other instructions in writing read to you at the close of all the evidence, will be handed to you at that time to take to your jury room.

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BY _____

INSTRUCTION NO. 1

Those who participate in a jury trial must do so in accordance with established rules. This is true of the parties, the witnesses, the lawyers, and the judge. It is equally true of jurors. It is the court's duty to enforce these rules and to instruct you upon the law applicable to the case. It is your duty to follow the law as the court gives it to you.

However, no statement, ruling, or remark that I may make during the trial is intended to indicate my opinion of what the facts are. It is your duty to determine the facts and to determine them only from the evidence and the reasonable inferences to be drawn from the evidence. In your determination of the facts, you alone must decide upon the believability of the witnesses and the weight and value of the evidence.

In determining the believability of a witness and the weight to be given to testimony of the witness, you may take into consideration the witness' manner while testifying; the ability and opportunity of the witness to observe and remember any matter about which testimony is given; any interest, bias, or prejudice the witness may have; the reasonableness of the witness' testimony considered in the light of all of the evidence in the case; and any other matter that has a tendency in reason to prove or disprove the truthfulness of the testimony of the witness.

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It is important for you to understand that this case must be decided only by the evidence presented in the proceedings in this courtroom and the instructions I give you. The reason for this is that the evidence presented in court is reviewed by the lawyers and the court, and the lawyers have the opportunity to comment on, or dispute, evidence presented in court. If you obtain information from other places, the lawyers do not have the opportunity to comment on or dispute it. Fairness and our system of justice require giving both sides the opportunity to view and comment on all evidence in the case. It is unfair to the parties if you obtain information about the case outside this courtroom.

Therefore, you should not visit the scene of any of the incidents described in this case, nor should you conduct your own research or investigation. For example, you should not conduct any independent research of any type by reference to textbooks, dictionaries, magazines, the Internet, a person you consider to be knowledgeable or any other means about any issue in this case, or any witnesses, parties, lawyers, medical or scientific terminology, or evidence that is any way involved in this trial.

You should not communicate, use a cell phone, record, photograph, video, e-mail, blog, tweet, text or post anything about this trial or your thoughts or opinions about any issue in this case to any person. This prohibition on communication about this trial includes use of the Internet, such as “Facebook,” “MySpace,” “Twitter”, or any other personal or public website.

Faithful performance by you of your duties as jurors is vital to the administration of justice. You should perform your duties without prejudice or fear, and solely from a fair and impartial consideration of the whole case. An individual juror's personal bias, prejudice, or opinion about any characteristics, or perceived characteristics, associated with disability, gender nationality, race or ethnicity, religion, gender identity, or sexual orientation should not be considered.

Do not make up your mind during the trial about what the verdict should be. Keep an open mind until you have heard all the evidence and the case is given to you to decide.

Each of you may take notes in this case but you are not required to do so. I will give you notebooks. Any notes you take must be in those notebooks only. You may not take any notes out of the courtroom before the case is submitted to you for your deliberations. No one will read your notes while you are out of the courtroom. If you choose to take notes, remember that note-taking may interfere with your ability to observe the evidence and witnesses as they are presented.

Do not discuss or share your notes with anyone until you begin your deliberations. During deliberations, if you choose to do so, you may use your notes and discuss them with other jurors. Notes taken during trial are not evidence. You should not assume that your notes, or those of other jurors, are more accurate than your own recollection or the recollection of other jurors.

After you reach your verdict, your notes will be collected and destroyed. No one will be allowed to read them.

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INSTRUCTION NO. 2

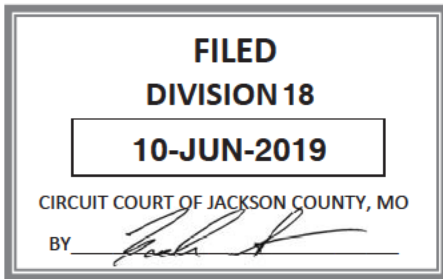
You must not assume as true any fact solely because it is included in or suggested by a question asked a witness. A question is not evidence, and may be considered only as it supplies meaning to the answer.

From time to time the attorneys may make objections. They have a right to do so and are only doing their duty as they see it. You should draw no inference from the fact that an objection has been made.

If the court sustains an objection to a question, you will disregard the entire question and you should not speculate as to what the answer of the witness might have been. The same applies to exhibits offered but excluded from the evidence after an objection has been sustained. You will also disregard any answer or other matter which the court directs you not to consider and anything which the court orders stricken from the record.

The opening statements of attorneys are not evidence. Also, you must not consider as evidence any statement or remark or argument by any of the attorneys addressed to another attorney or to the court. However, the attorneys may enter into stipulations of fact. These stipulations become part of the evidence and are to be considered by you as such.

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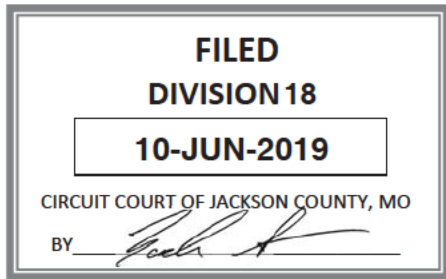
INSTRUCTION NO. 3

The law applicable to this case is stated in these instructions and the two which the Court read to you immediately after you were sworn as jurors. All of the instructions will be given to you to take to your jury room for use during your deliberations.

You must not single out certain instructions and disregard others or question the wisdom of any rule of law.

The Court does not mean to assume as true any fact referred to in these instructions but leaves it to you to determine what the facts are.

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INSTRUCTION NO. 4

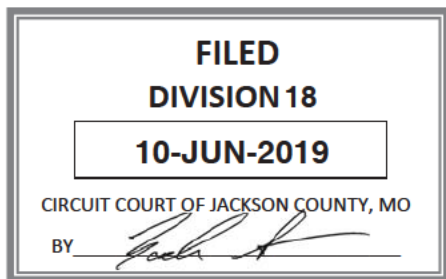
The charge of any offense is not evidence, and it creates no inference that any offense was committed or that the defendant is guilty of an offense.

The defendant is presumed to be innocent, unless and until, during your deliberations upon your verdict, you find him guilty. This presumption of innocence places upon the state the burden of proving beyond a reasonable doubt that the defendant is guilty.

A reasonable doubt is a doubt based upon reason and common sense after careful and impartial consideration of all the evidence in the case.

Proof beyond a reasonable doubt is proof that leaves you firmly convinced of the defendant's guilt. The law does not require proof that overcomes every possible doubt. If, after your consideration of all the evidence, you are firmly convinced that the defendant is guilty of the crime charged, you will find him guilty. If you are not so convinced, you must give him the benefit of the doubt and find him not guilty.

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INSTRUCTION NO. 5

As to Count I, if you find and believe from the evidence beyond a reasonable doubt:

First, that on or about December 7, 2017, in the State of Missouri, the defendant caused the death of Reginald E. Jones (a/k/a Reginald Jones, Sr.), by shooting him, and

Second, that defendant knew or was aware that his conduct was practically certain to cause the death of Reginald E. Jones (a/k/a Reginald Jones, Sr.), and

Third, that defendant did so after deliberation, which means cool reflection upon the matter for any length of time no matter how brief, and

Fourth, that defendant did not act in lawful self-defense as submitted in Instruction No. 13, and

Fifth, that defendant did not act in lawful defense of another person as submitted in Instruction No. 14,

then you will find the defendant guilty under Count I of Murder in the First Degree.

However, unless you find and believe from the evidence beyond a reasonable doubt each and all of these propositions, you must find the defendant not guilty of Murder in the First Degree.

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If you do find the defendant guilty under Count I of Murder in the First Degree, you are to assess and declare the punishment at imprisonment for life without eligibility for probation or parole.

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INSTRUCTION NO. 6

As to Count I, if you find and believe that defendant did act in self-defense, you must find the defendant not guilty under Count I Murder in the First Degree as submitted in Instruction No. 5.

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INSTRUCTION NO. 7

As to Count I, if you do not find the defendant guilty of Murder in the First Degree, you must consider whether he is guilty of Murder in the Second Degree under this instruction.

As to Count I, if you find and believe from the evidence beyond a reasonable doubt:

First, that on or about December 7, 2017, in the State of Missouri, the defendant caused the death of Reginald E. Jones (a/k/a Reginald Jones, Sr.), by shooting him, and

Second, that it was the defendant's purpose to cause serious physical injury to or to cause the death of Reginald E. Jones (a/k/a Reginald Jones, Sr.), and

Third, that defendant did not do so under the influence of sudden passion arising from adequate cause, and

Fourth, that defendant did not act in lawful self-defense as submitted in Instruction No. 13, and

Fifth, that defendant did not act in lawful defense of another person as submitted in Instruction No. 14,

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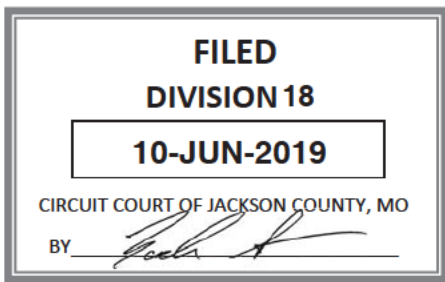
then you will find the defendant guilty under Count I of Murder in the Second Degree.

However, unless you find and believe from the evidence beyond a reasonable doubt each and all of these propositions, you must find the defendant not guilty of Murder in the Second Degree under this instruction.

As used in this instruction, the term "sudden passion" means passion directly caused by and arising out of provocation by Reginald E. Jones (a/k/a Reginald Jones, Sr.), or another acting with Reginald E. Jones (a/k/a Reginald Jones, Sr.), which passion arose at the time of the offense and was not solely the result of former provocation.

The term "adequate cause" means cause that would reasonably produce a degree of passion in a person of ordinary temperament sufficient to substantially impair an ordinary person's capacity for self-control.

As used in this instruction, the term "serious physical injury" means physical injury that creates a substantial risk of death or that causes serious disfigurement or protracted loss or impairment of the function of any part of the body.



INSTRUCTION NO. 8

As to Count I, if you find and believe that defendant did act in self-defense, you must find the defendant not guilty under Count I Murder in the Second Degree as submitted in Instruction No. 7.

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INSTRUCTION NO. 9

As to Count I, if you do not find the defendant guilty of Murder in the Second Degree, you must consider whether the defendant is guilty of Voluntary Manslaughter.

As to Count I, if you find and believe from the evidence beyond a reasonable doubt:

First, that on or about December 7, 2017, in the State of Missouri, the defendant caused the death of Reginald E. Jones (a/k/a Reginald Jones, Sr.) by shooting him, and

Second, that it was the defendant's purpose to cause serious physical injury to or to cause the death of Reginald E. Jones (a/k/a Reginald Jones, Sr.), and

Third, that defendant did not act in lawful self-defense as submitted in Instruction No. 13, and

Fourth, that defendant did not act in lawful defense of another person as submitted in Instruction No. 14,

then you will find the defendant guilty under Count I of Voluntary Manslaughter.

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However, unless you find and believe from the evidence beyond a reasonable doubt each and all of these propositions, you must find the defendant not guilty of Voluntary Manslaughter.

As used in this instruction, the term "serious physical injury" means physical injury that creates a substantial risk of death or that causes serious disfigurement or protracted loss or impairment of the function of any part of the body.

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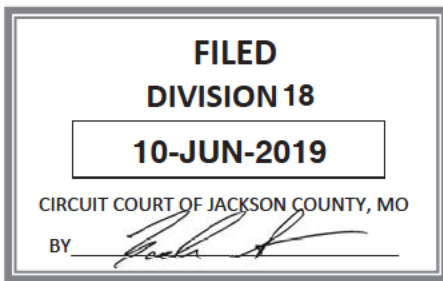
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INSTRUCTION NO. 10

As to Count I, if you find and believe that defendant did act in self-defense, you must find the defendant not guilty under Count I Voluntary Manslaughter as submitted in Instruction No. 9.

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INSTRUCTION NO. 11

As to Count I, if you do not find the defendant guilty of Voluntary Manslaughter, you must consider whether he is guilty of Involuntary Manslaughter in the First Degree under this instruction.

As to Count I, if you find and believe from the evidence beyond a reasonable doubt:

First, that on or about December 7, 2017, in the State of Missouri, the defendant caused the death of Reginald Jones, Sr., by shooting him, and

Second, that defendant recklessly caused the death of Reginald Jones, Sr., and

Third, that defendant did not act in lawful self- defense as submitted in Instruction No. 13, and

Fourth, that defendant did not act in lawful defense of another as submitted in Instruction No. 14, and

then you will find the defendant guilty under Count I of Involuntary Manslaughter in the First Degree under this instruction.

However, unless you find and believe from the evidence beyond a reasonable doubt each and all of these propositions, you must find the defendant not guilty of that offense.

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In determining whether the defendant recklessly caused the death of Reginald Jones, Sr. you are instructed that a person acts recklessly as to causing the death of another person when there is a substantial and unjustifiable risk he will cause death and he consciously disregards that risk, and such disregard is a gross deviation from what a reasonable person would do in the circumstances.

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INSTRUCTION NO. 12

As to Count I, if you find and believe that defendant did act in self-defense, you must find the defendant not guilty under Count I Involuntary Manslaughter as submitted in Instruction No. 11.

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INSTRUCTION NO. 13

One of the issues as to Count I is whether the use of physical force by the defendant against Reginald E. Jones (a/k/a Reginald Jones, Sr.), was lawful. On the issue of self-defense as to Count I, you are instructed as follows:

In this state the use of physical force, including the use of deadly force, to defend oneself is lawful in certain situations.

However, an initial aggressor is not justified in using physical force to defend himself from the counter attack that he provoked.

A person who is the initial aggressor in an encounter can regain the privilege of using physical force in lawful self-defense if he withdraws from the original encounter and clearly indicates to the other person his desire to end the encounter. Then, if the other person persists in continuing the conflict by threatening to use or by using unlawful force, the first person is no longer the initial aggressor, and he can then lawfully use physical force to defend himself.

In order for a person lawfully to use non-deadly physical force in self-defense, he must reasonably believe such physical force is necessary to defend himself from what he reasonably believes to be the use or imminent use of unlawful force and he can only use physical force to the extent that he reasonably believes is necessary to defend himself.

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But a person is not permitted to use deadly force unless he reasonably believes that the use of deadly force is necessary to protect himself against death or serious physical injury or the commission of a forcible felony.

A person is not required to retreat before resorting to the use of physical force to defend himself if he is in a location the person has the right to be.

The state has the burden of proving beyond a reasonable doubt that the defendant did not act in lawful self-defense. Unless you find beyond a reasonable doubt that the defendant did not act in lawful self-defense, you must find the defendant not guilty under Count I.

As used in this instruction, an "initial aggressor" is one who first attacks or threatens to attack another.

As used in this instruction, the term "reasonably believe" means a belief based on reasonable grounds, that is, grounds that could lead a reasonable person in the same situation to the same belief. This depends upon how the facts reasonably appeared. It does not depend upon whether the belief turned out to be true or false.

As used in this instruction, "deadly force" means physical force which is used with the purpose of causing or which a person knows to create a substantial risk of causing death or serious physical injury.

As used in this instruction, the term "serious physical injury" means physical injury that creates a substantial risk of death or that causes serious disfigurement or protracted loss or impairment of the function of any part of the body.

As used in this instruction, the term "forcible felony" means robbery.

As used in this instruction, "robbery" means the forcible theft of property.

Evidence has been introduced of the reputation of Reginald E. Jones (a/k/a Reginald Jones, Sr.) for being violent and turbulent. You may consider this evidence in determining who was the initial aggressor in the encounter.

Evidence has been introduced that Reginald E. Jones (a/k/a Reginald Jones, Sr.), had a reputation for being violent and turbulent, and that the defendant was aware of that reputation. You may consider this evidence in determining whether the defendant reasonably believed that the use of physical force was necessary to defend himself from what he reasonably believed to be the use or imminent use of unlawful force by Reginald E. Jones (a/k/a Reginald Jones, Sr.).

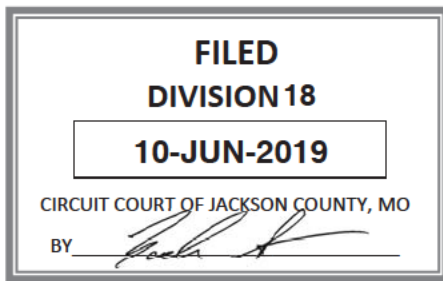
Evidence has been introduced of the prior relationship between defendant and Reginald E. Jones (a/k/a Reginald Jones, Sr.), including evidence of arguments and acts of violence. You may consider this evidence in determining who the initial aggressor in the encounter was, and you may also consider it in determining whether the defendant reasonably believed that the use of physical force was necessary to defend himself from what he reasonably believed to be the use or imminent use of unlawful force by Reginald E. Jones (a/k/a Reginald Jones, Sr.).

Evidence has been introduced of acts of violence not involving the defendant committed by Reginald E. Jones (a/k/a Reginald Jones, Sr.), and that the defendant was aware of these acts. You may consider this evidence in determining whether the defendant reasonably believed that the use of physical force was necessary to defend himself from what he reasonably believed to be the use or imminent use of unlawful force. You may not consider this evidence in determining who was the initial aggressor in the encounter or for any other reason.

Evidence has been introduced of threats made by Reginald E. Jones (a/k/a Reginald Jones, Sr.), against defendant and evidence of threats made by defendant against Reginald E. Jones (a/k/a Reginald Jones, Sr.). You may consider this evidence in determining who was the initial aggressor in the encounter.

If any threats against defendant were made by Reginald E. Jones (a/k/a Reginald Jones, Sr.), and were known by or had been communicated to the defendant, you may consider this evidence in determining whether the defendant reasonably believed that the use of physical force was necessary to defend himself from what he reasonably believed to be the use or imminent use of unlawful force by Reginald E. Jones (a/k/a Reginald Jones, Sr.).

You, however, should consider all of the evidence in the case in determining whether the defendant acted in lawful self-defense.



INSTRUCTION NO. 14

One of the issues as to Count I is whether the use of physical force by the defendant against Reginald E. Jones (a/k/a Reginald Jones, Sr.), was lawful. On the issue of defense of another person, you are instructed as follows:

In this state the use of physical force, including the use of deadly force, to defend another person is lawful in certain situations.

However, an initial aggressor is not justified in using physical force to defend others from the counter attack that he provoked.

A person who is the initial aggressor in an encounter can regain the privilege of using force in defense of others if he withdraws from the original encounter and clearly indicates to the other person his desire to end the encounter. Then, if the other person persists in continuing the incident by threatening to use or by using force, the first person is no longer the initial aggressor, and he can then lawfully use force to protect others.

In order for a person to lawfully use non-deadly physical force in defense of another person, he must reasonably believe that physical force is necessary to defend the person he is trying to defend from what he reasonably believes to be the use or imminent use of unlawful force and he can only use physical force to the extent that he reasonably believes is necessary to defend the other person.

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But a person is not permitted to use deadly force unless he reasonably believes the use of deadly force is necessary to protect the other person against death or serious physical injury or the commission of a forcible felony.

A person is not required to retreat before resorting to the use of physical force to defend another person if he is in a location the person has the right to be.

The state has the burden of proving beyond a reasonable doubt that the defendant did not act in lawful defense of Sean Hill, Donald Riley, or a person identified as "Quann." Unless you find beyond a reasonable doubt that the defendant did not act in lawful defense of Sean Hill, Donald Riley, or a person identified as "Quann," you must find the defendant not guilty under Count I.

As used in this instruction, an "initial aggressor" is one who first attacks or threatens to attack another.

As used in this instruction, the term "reasonably believe" means a belief based on reasonable grounds, that is, grounds that could lead a reasonable person in the same situation to the same belief. This depends upon how the facts reasonably appeared. It does not depend upon whether the belief turned out to be true or false.

As used in this instruction, "deadly force" means physical force which is used with the purpose of causing or which a person knows to create a substantial risk of causing death or serious physical injury.

As used in this instruction, the term "serious physical injury" means physical injury that creates a substantial risk of death or that causes serious disfigurement or protracted loss or impairment of the function of any part of the body.

As used in this instruction, the term "forcible felony" means robbery.

As used in this instruction, "robbery" means the forcible theft of property.

Evidence has been introduced of the reputation of Reginald E. Jones (a/k/a Reginald Jones, Sr.) for being violent and turbulent. You may consider this evidence in determining who was the initial aggressor in the encounter.

Evidence has been introduced that Reginald E. Jones (a/k/a Reginald Jones, Sr.), had a reputation for being violent and turbulent, and that the defendant was aware of that reputation. You may consider this evidence in determining whether the defendant reasonably believed that the use of physical force was necessary to defend Sean Hill, Donald Riley, or a person identified as "Quann" from what he reasonably believed to be the use or imminent use of unlawful force by Reginald E. Jones (a/k/a Reginald Jones, Sr.).

Evidence has been introduced of the prior relationship between defendant and Reginald E. Jones (a/k/a Reginald Jones, Sr.), including evidence of arguments and acts of violence. You may consider this evidence in determining who the initial aggressor in the encounter was, and you may also consider it in determining whether the defendant reasonably believed that the use of physical force was necessary to defend Sean Hill, Donald Riley, or a person identified as "Quann" from what he

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reasonably believed to be the imminent use of unlawful force by Reginald E. Jones (a/k/a Reginald Jones, Sr.).

Evidence has been introduced of acts of violence not involving the defendant committed by Reginald E. Jones (a/k/a Reginald Jones, Sr.), and that the defendant was aware of these acts. You may consider this evidence in determining whether the defendant reasonably believed that the use of physical force was necessary to defend Sean Hill, Donald Riley, or a person identified as “Quann” from what he reasonably believed to be the use or imminent use of unlawful force. You may not consider this evidence in determining who was the initial aggressor in the encounter or for any other reason.

Evidence has been introduced of threats made by Reginald E. Jones (a/k/a Reginald Jones, Sr.), against defendant and evidence of threats made by defendant against Reginald E. Jones (a/k/a Reginald Jones, Sr.). You may consider this evidence in determining who was the initial aggressor in the encounter.

If any threats against defendant, Sean Hill, Donald Riley, or a person identified as “Quann” were made by Reginald E. Jones (a/k/a Reginald Jones, Sr.), and were known by or had been communicated to the defendant, you may consider this evidence in determining whether the defendant reasonably believed that the use of physical force was necessary to defend Sean Hill, Donald Riley, or a person identified as “Quann” from what he reasonably believed to be the use or imminent use of unlawful force by Reginald E. Jones (a/k/a Reginald Jones, Sr.).

You, however, should consider all of the evidence in the case in determining whether the defendant acted in lawful defense of Sean Hill, Donald Riley, or a person identified as “Quann.”

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INSTRUCTION NO. 15

As to Count II, if you find and believe from the evidence beyond a reasonable doubt:

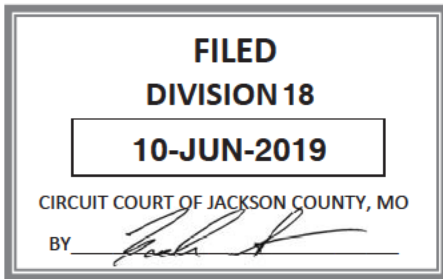
First, that defendant committed the offense of Murder in the First Degree, as submitted in Instruction No. 5, and

Second, that defendant committed that offense by or with or through, the knowing use or assistance or aid of a deadly weapon,

then you will find the defendant guilty under Count II of Armed Criminal Action.

However, unless you find and believe from the evidence beyond a reasonable doubt each and all of these propositions, you must find the defendant not guilty of that offense.

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INSTRUCTION NO. 16

As to Count II, if you do not find the defendant guilty of Armed Criminal Action in connection with the offense of Murder in the First Degree, you must consider whether the defendant is guilty of Armed Criminal Action in connection with the offense of Murder in the Second Degree.

As to Count II, if you find and believe from the evidence beyond a reasonable doubt:

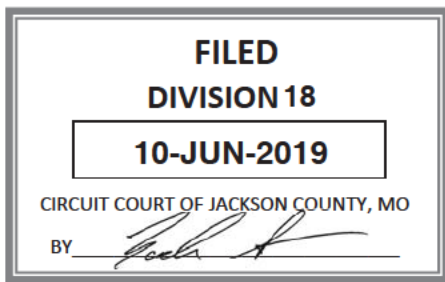
First, that defendant committed the offense of Murder in the Second Degree, as submitted in Instruction No. 7, and

Second, that defendant committed that offense by or with or through, the knowing use or assistance or aid of a deadly weapon,

then you will find the defendant guilty under Count II of Armed Criminal Action.

However, unless you find and believe from the evidence beyond a reasonable doubt each and all of these propositions, you must find the defendant not guilty of that offense.

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INSTRUCTION NO. 17

As to Count II, if you do not find the defendant guilty of Armed Criminal Action in connection with the offense of Murder in the Second Degree, you must consider whether the defendant is guilty of Armed Criminal Action in connection with the offense of Voluntary Manslaughter.

As to Count II, if you find and believe from the evidence beyond a reasonable doubt:

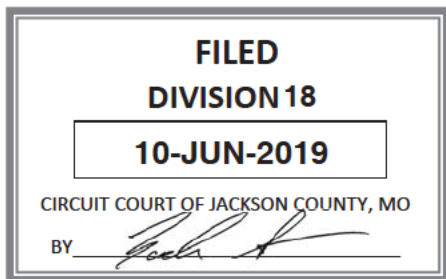
First, that defendant committed the offense of Voluntary Manslaughter, as submitted in Instruction No. 9, and

Second, that defendant committed that offense by or with or through, the knowing use or assistance or aid of a deadly weapon,

then you will find the defendant guilty under Count II of Armed Criminal Action.

However, unless you find and believe from the evidence beyond a reasonable doubt each and all of these propositions, you must find the defendant not guilty of that offense.

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INSTRUCTION NO. 18

As to Count II, if you do not find the defendant guilty of Armed Criminal Action in connection with the offense of Voluntary Manslaughter, you must consider whether the defendant is guilty of Armed Criminal Action in connection with the offense of Involuntary Manslaughter in the First Degree.

As to Count II, if you find and believe from the evidence beyond a reasonable doubt:

First, that defendant committed the offense of Involuntary Manslaughter in the First Degree, as submitted in Instruction No. 11, and

Second, that defendant committed that offense by or with or through, the knowing use or assistance or aid of a deadly weapon,

then you will find the defendant guilty under Count II of Armed Criminal Action.

However, unless you find and believe from the evidence beyond a reasonable doubt each and all of these propositions, you must find the defendant not guilty of that offense.

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INSTRUCTION NO. 19

As to Count III, if you find and believe from the evidence beyond a reasonable doubt:

First, that on or about December 7, 2017, in the State of Missouri, the defendant caused the death of Darryl Singleton by shooting him, and

Second, that defendant knew or was aware that his conduct was practically certain to cause the death of Darryl Singleton, and

Third, that defendant did so after deliberation, which means cool reflection upon the matter for any length of time no matter how brief, and

Fourth, that defendant did not act in lawful self-defense as submitted in Instruction No. 27, and

Fifth, that defendant did not act in lawful defense of another person as submitted in Instruction No. 28,

then you will find the defendant guilty under Count III of Murder in the First Degree.

However, unless you find and believe from the evidence beyond a reasonable doubt each and all of these propositions, you must find the defendant not guilty of Murder in the First Degree.

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If you do find the defendant guilty under Count III of Murder in the First Degree, you are to assess and declare the punishment at imprisonment for life without eligibility for probation or parole.

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INSTRUCTION NO. 20

As to Count III, if you find and believe that defendant did act in self-defense, you must find the defendant not guilty under Count III Murder in the First Degree as submitted in Instruction No. 19.

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INSTRUCTION NO. 21

As to Count III, if you do not find the defendant guilty of Murder in the First Degree, you must consider whether he is guilty of Murder in the Second Degree under this instruction.

As to Count III, if you find and believe from the evidence beyond a reasonable doubt:

First, that on or about December 7, 2017, in the State of Missouri, the defendant caused the death of Darryl Singleton by shooting him, and

Second, that it was the defendant's purpose to cause serious physical injury to or to cause the death of Darryl Singleton, and

Third, that defendant did not do so under the influence of sudden passion arising from adequate cause, and

Fourth, that defendant did not act in lawful self-defense as submitted in Instruction No. 27, and

Fifth, that defendant did not act in lawful defense of another person as submitted in Instruction No. 28,

then you will find the defendant guilty under Count III of Murder in the Second Degree.

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However, unless you find and believe from the evidence beyond a reasonable doubt each and all of these propositions, you must find the defendant not guilty of Murder in the Second Degree under this instruction.

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INSTRUCTION NO. 22

As to Count III, if you find and believe that defendant did act in self-defense, you must find the defendant not guilty under Count III Murder in the Second Degree as submitted in Instruction No. 21.

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INSTRUCTION NO. 23

As to Count III, if you do not find the defendant guilty of Murder in the Second Degree, you must consider whether the defendant is guilty of Voluntary Manslaughter.

As to Count III, if you find and believe from the evidence beyond a reasonable doubt:

First, that on or about December 7, 2017, in the State of Missouri, the defendant caused the death of Darryl Singleton by shooting him, and

Second, that it was the defendant's purpose to cause serious physical injury to or to cause the death of Darryl Singleton, and

Third, that defendant did not act in lawful self-defense as submitted in Instruction No. 27, and

Fourth, that defendant did not act in lawful defense of another person as submitted in Instruction No. 28,

then you will find the defendant guilty under Count III of Voluntary Manslaughter.

However, unless you find and believe from the evidence beyond a reasonable doubt each and all of these propositions, you must find the defendant not guilty of Voluntary Manslaughter.

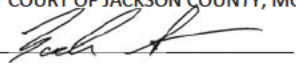
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INSTRUCTION NO. 24

As to Count III, if you find and believe that defendant did act in self-defense, you must find the defendant not guilty under Count III Voluntary Manslaughter as submitted in Instruction No. 23.

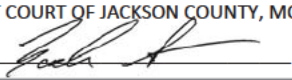
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INSTRUCTION NO. 25

As to Count III, if you do not find the defendant guilty of Voluntary Manslaughter, you must consider whether he is guilty of Involuntary Manslaughter in the First Degree under this instruction.

As to Count III, if you find and believe from the evidence beyond a reasonable doubt:

First, that on or about December 7, 2017, in the State of Missouri, the defendant caused the death of Darryl Singleton, by shooting him, and

Second, that defendant recklessly caused the death of Darryl Singleton, and

Third, that defendant did not act in lawful self-defense as submitted in Instruction No. 27, and

Fourth, that defendant did not act in lawful defense of another as submitted in Instruction No. 28,

then you will find the defendant guilty under Count III of Involuntary Manslaughter in the First Degree under this instruction.

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However, unless you find and believe from the evidence beyond a reasonable doubt each and all of these propositions, you must find the defendant not guilty of that offense.

In determining whether the defendant recklessly caused the death of Darryl Singleton you are instructed that a person acts recklessly as to causing the death of another person when there is a substantial and unjustifiable risk he will cause death and he consciously disregards that risk, and such disregard is a gross deviation from what a reasonable person would do in the circumstances.

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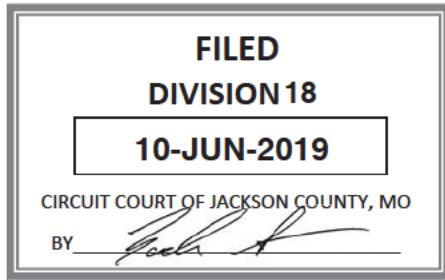
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INSTRUCTION NO. 26

As to Count III, if you find and believe that defendant did act in self-defense, you must find the defendant not guilty under Count III Involuntary Manslaughter in the First Degree as submitted in Instruction No. 25.

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INSTRUCTION NO. 27

One of the issues as to Count III is whether the use of physical force by the defendant against Darryl Singleton was lawful. On the issue of self-defense, you are instructed as follows:

In this state the use of physical force, including the use of deadly force, to defend oneself is lawful in certain situations.

However, an initial aggressor is not justified in using physical force to defend himself from the counter attack that he provoked.

A person who is the initial aggressor in an encounter can regain the privilege of using physical force in lawful self-defense if he withdraws from the original encounter and clearly indicates to the other person his desire to end the encounter. Then, if the other person persists in continuing the conflict by threatening to use or by using unlawful force, the first person is no longer the initial aggressor, and he can then lawfully use physical force to defend himself.

In order for a person lawfully to use non-deadly physical force in self-defense, he must reasonably believe such physical force is necessary to defend himself from

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what he reasonably believes to be the use or imminent use of unlawful force and he can only use physical force to the extent that he reasonably believes is necessary to defend himself.

But a person is not permitted to use deadly force unless he reasonably believes that the use of deadly force is necessary to protect himself against death or serious physical injury or the commission of a forcible felony .

A person is not required to retreat before resorting to the use of physical force to defend himself if he is in a location the person has the right to be.

The state has the burden of proving beyond a reasonable doubt that the defendant did not act in lawful self-defense. Unless you find beyond a reasonable doubt that the defendant did not act in lawful self-defense, you must find the defendant not guilty under Count III.

As used in this instruction, an "initial aggressor" is one who first attacks or threatens to attack another.

As used in this instruction, the term "reasonably believe" means a belief based on reasonable grounds, that is, grounds that could lead a reasonable person in the same situation to the same belief. This depends upon how the facts reasonably appeared. It does not depend upon whether the belief turned out to be true or false.

As used in this instruction, "deadly force" means physical force which is used with the purpose of causing or which a person knows to create a substantial risk of causing death or serious physical injury.

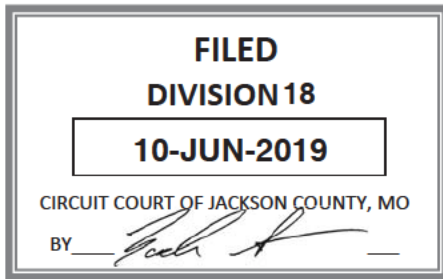
As used in this instruction, the term "serious physical injury" means physical injury that creates a substantial risk of death or that causes serious disfigurement or protracted loss or impairment of the function of any part of the body.

As used in this instruction, the term "forcible felony" means robbery.

As used in this instruction, "robbery" means the forcible theft of property.

If any threats against defendant were made by Darryl Singleton and were known by or had been communicated to the defendant, you may consider this evidence in determining whether the defendant reasonably believed that the use of physical force was necessary to defend himself from what he reasonably believed to be the use or imminent use of unlawful force by Darryl Singleton.

You, however, should consider all of the evidence in the case in determining whether the defendant acted in lawful self-defense.



INSTRUCTION NO. 28

One of the issues as to Count III is whether the use of physical force by the defendant against Darryl Singleton was lawful. On the issue of defense of another person, you are instructed as follows:

In this state the use of physical force, including the use of deadly force, to defend another person is lawful in certain situations.

However, an initial aggressor is not justified in using physical force to defend others from the counter attack that he provoked.

A person who is the initial aggressor in an encounter can regain the privilege of using force in defense of others if he withdraws from the original encounter and clearly indicates to the other person his desire to end the encounter. Then, if the other person persists in continuing the incident by threatening to use or by using force, the first person is no longer the initial aggressor, and he can then lawfully use force to protect others.

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In order for a person to lawfully use non-deadly physical force in defense of another person, he must reasonably believe that physical force is necessary to defend the person he is trying to defend from what he reasonably believes to be the use or imminent use of unlawful force and he can only use physical force to the extent that he reasonably believes is necessary to defend the other person.

But a person is not permitted to use deadly force unless he reasonably believes the use of deadly force is necessary to protect the other person against death or serious physical injury or the commission of a forcible felony.

A person is not required to retreat before resorting to the use of physical force to defend another person if he is in a location the person has the right to be.

The state has the burden of proving beyond a reasonable doubt that the defendant did not act in lawful defense of Sean Hill, Donald Riley, or a person identified as "Quann." Unless you find beyond a reasonable doubt that the defendant did not act in lawful defense of Sean Hill, Donald Riley, or a person identified as "Quann," you must find the defendant not guilty under Count III.

As used in this instruction, an "initial aggressor" is one who first attacks or threatens to attack another.

As used in this instruction, the term "reasonably believe" means a belief based on reasonable grounds, that is, grounds that could lead a reasonable person in the same situation to the same belief. This depends upon how the facts reasonably appeared. It does not depend upon whether the belief turned out to be true or false.

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As used in this instruction, "deadly force" means physical force which is used with the purpose of causing or which a person knows to create a substantial risk of causing death or serious physical injury.

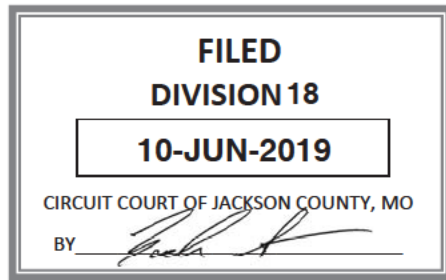
As used in this instruction, the term "serious physical injury" means physical injury that creates a substantial risk of death or that causes serious disfigurement or protracted loss or impairment of the function of any part of the body.

As used in this instruction, the term "forcible felony" means robbery.

As used in this instruction, "robbery" means the forcible theft of property.

If any threats against defendant, Sean Hill, Donald Riley, or a person identified as "Quann" were made by Darryl Singleton and were known by or had been communicated to the defendant, you may consider this evidence in determining whether the defendant reasonably believed that the use of physical force was necessary to defend Sean Hill, Donald Riley, or a person identified as "Quann" from what he reasonably believed to be the use or imminent use of unlawful force by Darryl Singleton.

You, however, should consider all of the evidence in the case in determining whether the defendant acted in lawful defense of Sean Hill, Donald Riley, or a person identified as "Quann."



INSTRUCTION NO. 29

As to Count IV, if you find and believe from the evidence beyond a reasonable doubt:

First, that defendant committed the offense of Murder in the First Degree, as submitted in Instruction No. 19, and

Second, that defendant committed that offense by or with or through, the knowing use or assistance or aid of a deadly weapon,

then you will find the defendant guilty under Count IV of Armed Criminal Action.

However, unless you find and believe from the evidence beyond a reasonable doubt each and all of these propositions, you must find the defendant not guilty of that offense.

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INSTRUCTION NO. 30

As to Count IV, if you do not find the defendant guilty of Armed Criminal Action in connection with the offense of Murder in the First Degree, you must consider whether the defendant is guilty of Armed Criminal Action in connection with the offense of Murder in the Second Degree.

As to Count IV, if you find and believe from the evidence beyond a reasonable doubt:

First, that defendant committed the offense of Murder in the Second Degree,
as submitted in Instruction No. 21, and

Second, that defendant committed that offense by or with or through, the
knowing use or assistance or aid of a deadly weapon,

then you will find the defendant guilty under Count IV of Armed Criminal Action.

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However, unless you find and believe from the evidence beyond a reasonable doubt each and all of these propositions, you must find the defendant not guilty of that offense.

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INSTRUCTION NO. 31

As to Count IV, if you do not find the defendant guilty of Armed Criminal Action in connection with the offense of Murder in the Second Degree, you must consider whether the defendant is guilty of Armed Criminal Action in connection with the offense of Voluntary Manslaughter.

As to Count IV, if you find and believe from the evidence beyond a reasonable doubt:

First, that defendant committed the offense of Voluntary Manslaughter, as submitted in Instruction No. 23, and

Second, that defendant committed that offense by or with or through, the knowing use or assistance or aid of a deadly weapon,

then you will find the defendant guilty under Count IV of Armed Criminal Action.

However, unless you find and believe from the evidence beyond a reasonable doubt each and all of these propositions, you must find the defendant not guilty of that offense.

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INSTRUCTION NO. 32

As to Count IV, if you do not find the defendant guilty of Armed Criminal Action in connection with the offense of Voluntary Manslaughter, you must consider whether the defendant is guilty of Armed Criminal Action in connection with the offense of Involuntary Manslaughter in the First Degree.

As to Count IV, if you find and believe from the evidence beyond a reasonable doubt:

First, that defendant committed the offense of Involuntary Manslaughter in the First Degree, as submitted in Instruction No. 25, and

Second, that defendant committed that offense by or with or through, the knowing use or assistance or aid of a deadly weapon,

then you will find the defendant guilty under Count IV of Armed Criminal Action.

However, unless you find and believe from the evidence beyond a reasonable doubt each and all of these propositions, you must find the defendant not guilty of that offense.

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INSTRUCTION NO. 33

The defendant is charged with a separate offense in each of the four counts submitted to you. Each count must be considered separately.

You should return a separate verdict for each count and you can return only one verdict for each count.

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INSTRUCTION NO. 34

When you retire to your jury room, you will first select one of your number to act as your foreperson and to preside over your deliberations.

You will then discuss the case with your fellow jurors. Each of you must decide the case for yourself, but you should do so only after you have considered all the evidence, discussed it fully with the other jurors, and listened to the views of your fellow jurors.

Your verdict, whether guilty or not guilty, must be agreed to by each juror. Although the verdict must be unanimous, the verdict should be signed by your foreperson alone.

When you have concluded your deliberations, you will complete the applicable forms to which you unanimously agree and return them with all unused forms and the written instructions of the Court.

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INSTRUCTION NO. 35

The attorneys will now have the opportunity of arguing the case to you. Their arguments are intended to help you in understanding the evidence and applying the law, but they are not evidence.

You will bear in mind that it is your duty to be governed in your deliberations by the evidence as you remember it, the reasonable inferences which you believe should be drawn therefrom, and the law as given in these instructions.

It is your duty, and yours alone, to render such verdict under the law and the evidence as in your reason and conscience is true and just.

The state's attorney must open the argument. The defendant's attorney may then argue the case. The state's attorney may then reply. No further argument is permitted by either side.

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VERDICT FORM

As to Count I, we, the jury, find the defendant Reginald Jones, Jr. guilty of Murder in the First Degree as submitted in Instruction No. 5.

Foreperson

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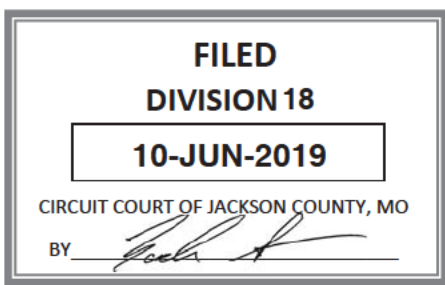
BY

VERDICT FORM

As to Count I, we, the jury, find the defendant Reginald Jones, Jr. guilty of
Murder in the Second Degree as submitted in Instruction No. 7.

Foreperson

1716-CR05241-01
State v. Reginald Jones Jr.



VERDICT FORM

As to Count I, we, the jury, find the defendant Reginald Jones, Jr. guilty of Voluntary Manslaughter as submitted in Instruction No. 9.

Foreperson

1716-CR05241-01
State v. Reginald Jones Jr.

FILED

DIVISION 18

10-JUN-2019

CIRCUIT COURT OF JACKSON COUNTY, MO

BY



VERDICT FORM

As to Count I, we, the jury, find the defendant Reginald Jones, Jr. guilty of
Involuntary Manslaughter in the First Degree as submitted in Instruction No. 11.

Foreperson

1716-CR05241-01
State v. Reginald Jones Jr.

FILED
DIVISION 18

10-JUN-2019

CIRCUIT COURT OF JACKSON COUNTY, MO

BY



VERDICT FORM

As to Count I, we, the jury, find the defendant Reginald Jones, Jr. not guilty.

Foreperson

1716-CR05241-01
State v. Reginald Jones Jr.

**FILED
DIVISION 18**

10-JUN-2019

CIRCUIT COURT OF JACKSON COUNTY, MO

BY

VERDICT FORM

As to Count II, we, the jury, find the defendant Reginald Jones, Jr. guilty of Armed Criminal Action as submitted in Instruction No. 15.

Foreperson

Note: Unless you have found the defendant guilty of Murder in the First Degree as submitted in Instruction No. 5, you may not find the defendant guilty of Armed Criminal Action as submitted in Instruction No. 15.

1716-CR05241-01
State v. Reginald Jones Jr.

**FILED
DIVISION 18**

10-JUN-2019

CIRCUIT COURT OF JACKSON COUNTY, MO

BY

VERDICT FORM

As to Count II, we, the jury, find the defendant Reginald Jones, Jr. guilty of Armed Criminal Action as submitted in Instruction No. 16.

Foreperson

Note: Unless you have found the defendant guilty of Murder in the Second Degree as submitted in Instruction No. 7, you may not find the defendant guilty of Armed Criminal Action as submitted in Instruction No. 16.

1716-CR05241-01
State v. Reginald Jones Jr.

FILED

DIVISION 18

10-JUN-2019

CIRCUIT COURT OF JACKSON COUNTY, MO

BY

VERDICT FORM

As to Count II, we, the jury, find the defendant Reginald Jones, Jr. guilty of Armed Criminal Action as submitted in Instruction No. 17.

Foreperson

Note: Unless you have found the defendant guilty of Voluntary Manslaughter as submitted in Instruction No. 9, you may not find the defendant guilty of Armed Criminal Action as submitted in Instruction No. 17.

1716-CR05241-01
State v. Reginald Jones Jr.

FILED

DIVISION 18

10-JUN-2019

CIRCUIT COURT OF JACKSON COUNTY, MO

BY 

VERDICT FORM

As to Count II, we, the jury, find the defendant Reginald Jones, Jr. guilty of Armed Criminal Action as submitted in Instruction No. 18.

Foreperson

Note: Unless you have found the defendant guilty of Involuntary Manslaughter in the First Degree as submitted in Instruction No. 11, you may not find the defendant guilty of Armed Criminal Action as submitted in Instruction No. 18.

1716-CR05241-01
State v. Reginald Jones Jr.

FILED
DIVISION 18

10-JUN-2019

CIRCUIT COURT OF JACKSON COUNTY, MO

BY

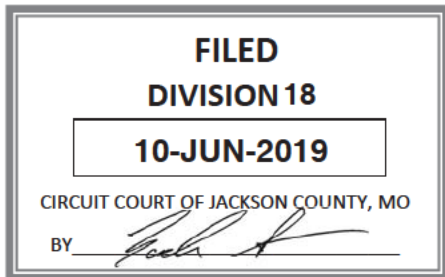


VERDICT FORM

As to Count II, we, the jury, find the defendant Reginald Jones, Jr. not guilty
of Armed Criminal Action.

Foreperson

1716-CR05241-01
State v. Reginald Jones Jr.



VERDICT FORM

As to Count III, we, the jury, find the defendant Reginald Jones, Jr. guilty
Murder in the First Degree as submitted in Instruction No. 19.

Foreperson

1716-CR05241-01
State v. Reginald Jones Jr.

FILED

DIVISION 18

10-JUN-2019

CIRCUIT COURT OF JACKSON COUNTY, MO

BY



VERDICT FORM

As to Count III, we, the jury, find the defendant Reginald Jones, Jr. guilty of Murder in the Second Degree as submitted in Instruction No. 21.

Foreperson

1716-CR05241-01
State v. Reginald Jones Jr.

FILED
DIVISION 18

10-JUN-2019

CIRCUIT COURT OF JACKSON COUNTY, MO

BY



VERDICT FORM

As to Count III, we, the jury, find the defendant Reginald Jones, Jr. guilty of Voluntary Manslaughter as submitted in Instruction No. 23.

Foreperson

1716-CR05241-01
State v. Reginald Jones Jr.

FILED

DIVISION 18

10-JUN-2019

CIRCUIT COURT OF JACKSON COUNTY, MO

BY



VERDICT FORM

As to Count III, we, the jury, find the defendant Reginald Jones, Jr. guilty of Involuntary Manslaughter in the First Degree as submitted in Instruction No. 25.

Foreperson

1716-CR05241-01
State v. Reginald Jones Jr.

FILED
DIVISION 18

10-JUN-2019

CIRCUIT COURT OF JACKSON COUNTY, MO

BY



VERDICT FORM

As to Count III, we, the jury, find the defendant Reginald Jones, Jr. not guilty.

Foreperson

1716-CR05241-01
State v. Reginald Jones Jr.

FILED
DIVISION 18

10-JUN-2019

CIRCUIT COURT OF JACKSON COUNTY, MO

BY



VERDICT FORM

As to Count IV, we, the jury, find the defendant Reginald Jones, Jr. guilty of Armed Criminal Action as submitted in Instruction No. 29.

Foreperson

Note: Unless you have found the defendant guilty of Murder in the First Degree as submitted in Instruction No. 19, you may not find the defendant guilty of Armed Criminal Action as submitted in Instruction No. 29.

1716-CR05241-01
State v. Reginald Jones Jr.

**FILED
DIVISION 18**

10-JUN-2019

CIRCUIT COURT OF JACKSON COUNTY, MO

BY 

VERDICT FORM

As to Count IV, we, the jury, find the defendant Reginald Jones, Jr. guilty of Armed Criminal Action as submitted in Instruction No. 30.

Foreperson

Note: Unless you have found the defendant guilty of Murder in the Second Degree as submitted in Instruction No. 21, you may not find the defendant guilty of Armed Criminal Action as submitted in Instruction No. 30.

1716-CR05241-01
State v. Reginald Jones Jr.

FILED
DIVISION 18

10-JUN-2019

CIRCUIT COURT OF JACKSON COUNTY, MO

BY

VERDICT FORM

As to Count IV, we, the jury, find the defendant Reginald Jones, Jr. guilty of Armed Criminal Action as submitted in Instruction No. 31.

Foreperson

Note: Unless you have found the defendant guilty of Voluntary Manslaughter as submitted in Instruction No. 23, you may not find the defendant guilty of Armed Criminal Action as submitted in Instruction No. 31.

1716-CR05241-01
State v. Reginald Jones Jr.

FILED

DIVISION 18

10-JUN-2019

CIRCUIT COURT OF JACKSON COUNTY, MO

BY 

VERDICT FORM

As to Count IV, we, the jury, find the defendant Reginald Jones, Jr. guilty of Armed Criminal Action as submitted in Instruction No. 32.

Foreperson

Note: Unless you have found the defendant guilty of Involuntary Manslaughter in the First Degree as submitted in Instruction No. 25, you may not find the defendant guilty of Armed Criminal Action as submitted in Instruction No. 32.

1716-CR05241-01
State v. Reginald Jones Jr.

FILED
DIVISION 18

10-JUN-2019

CIRCUIT COURT OF JACKSON COUNTY, MO

BY



VERDICT FORM

As to Count IV, we, the jury, find the defendant Reginald Jones, Jr. not guilty
of Armed Criminal Action.

Foreperson

1716-CR05241-01
State v. Reginald Jones Jr.

JURY QUESTION FORM

CASE NAME: *State of Missouri v. Reginald Jones Jr.*

CASE NO. 1716-CR05241-01

DATE: 6/11 TIME: 9:18

QUESTION:

- The jury would like to request State's & Defense exhibit 1 - all videos.
- STATE EVIDENCE AND DEFENSE EVIDENCE
- REQUEST WHAT THE STAND YOUR GROUND LAW IS AND CAN IT BE CONSIDERED.

BY: *Mark [Signature]*

FOREPERSON

COURT'S RESPONSE:

COURT HAS PROVIDED STATE'S EXHIBIT #1. ~~EXHIBIT~~
COURT HAS PROVIDED ALL ADMITTED EXHIBITS (SHALL CASES AND BULLETS)
THE JURY SHALL BE GUIDED BY THE COURT'S INSTRUCTIONS.

TIME

9:52 AM

Kevin D. Harrell
Kevin D. Harrell, JUDGE

Court's Exhibit #

JURY QUESTION FORM

CASE NAME: *State of Missouri v. Reginald Jones Jr.*

CASE NO. 1716-CR05241-01

DATE: 6/11 TIME: 3:57

QUESTION:

When considering self-defense in Count III does the initial aggressor, encounter, and lawful use of physical force need to be considered completely separate from that of Count I?

BY:

Dan Rhyly

FOREPERSON

COURT'S RESPONSE:

THE JURY SHALL BE GUIDED BY THE COURT'S INSTRUCTION.

TIME

4:20 PM

Kevin D. Harrell, JUDGE

Kevin D. Harrell

Court's Exhibit #

1 IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
2 16TH JUDICIAL CIRCUIT, DIVISION 18
Honorable Kevin D. Harrell, Judge

3 STATE OF MISSOURI,)
4 Plaintiff,)
5 vs.) No. 1716-CR05241-01
6 REGINALD JONES, JR.,)
7 Defendant.)

8 **EXCERPT - TRANSCRIPT**

10 On 6/12/19, the above cause came on for
11 hearing before the HONORABLE KEVIN D. HARRELL,
12 Judge of Division No. 18 of the 16th Judicial
Circuit Court of Missouri.

13 APPEARANCES

14 For the Plaintiff:

15 Ms. Sara Castle
16 Mr. Dion Sankar
17 Ms. Lauren Dollar
Assistant Prosecuting Attorneys
18 Prosecutors Office
415 E. 12th Street
Kansas City, MO 64105

19 For the Defendant:

20 Ms. Paige Bremner
21 Ms. Crystal Ellison
Assistant Public Defenders
22 Public Defenders Office
324 E. 11th Street
23 Kansas City, MO 64106

24
25 Jessica Sanford, RPR, CCR #1379
16th Judicial Circuit, Kansas City, Missouri

1 THE COURT: All right. In the matter 11:14:03
2 of State of Missouri vs. Reginald Jones, Jr., 11:14:04
3 these conversations are taking place outside 11:14:08
4 of our empanelled jury. We haven't had any 11:14:10
5 discussions as of yet. 11:14:25
6 MS. CASTLE: I apologize, Judge. We 11:14:28
7 were having elevator -- 11:14:28
8 THE COURT: No. No. You're fine. I 11:14:29
9 didn't know everybody was coming or else I 11:14:29
10 would have waited. 11:14:32
11 All right. So we have three 11:14:34
12 questions. And again, I think I started 11:14:35
13 saying that these conversations are taking 11:14:39
14 place outside our empanelled jury. 11:14:41
15 First question: If the jury doesn't 11:14:44
16 unanimously, all 12, find the defendant guilty 11:14:48
17 or not guilty, do we move on to the next 11:14:54
18 instruction question? If we do not all 12 11:14:57
19 agree on first degree, do we move on to the 11:15:00
20 next instruction or do we all have to agree on 11:15:04
21 one instruction moving to the next 11:15:08
22 instruction? 11:15:11
23 It is signed by the foreperson. 11:15:12
24 That's the first question. 11:15:14
25 MS. BREMNER: Can I read it, Judge? 11:15:17

1 THE COURT: You may. 11:15:19

2 MS. BREMNER: The law is actually 11:15:42

3 clear on this instruction, this question. 11:15:44

4 I've never had this come up in a jury 11:15:46

5 situation, so I'm not entirely sure what the 11:15:49

6 answer should be, but the instruction is -- so 11:15:57

7 I don't know if we just want to direct them to 11:16:00

8 the instruction again, but the instruction 11:16:02

9 is -- they don't have to all agree. They 11:16:06

10 could be hung on -- that's why they're 11:16:08

11 instructed to move on to -- if you look at the 11:16:11

12 instruction when it says from moving from 11:16:13

13 murder 1 to murder 2, you know, the next 11:16:18

14 language that comes on top of it. So I don't 11:16:21

15 know if we just say be guided by the 11:16:23

16 instructions or if we actually answer that 11:16:24

17 question with what it says. 11:16:27

18 THE COURT: State. 11:16:29

19 MR. SANKAR: Do you mind just giving 11:16:34

20 us one moment? 11:16:37

21 (Discussion held off the record.) 11:16:43

22 MS. CASTLE: Your Honor, I think that 11:17:10

23 our response would be you will just be guided 11:17:11

24 by the instructions. 11:17:13

25 THE COURT: Ms. Bremner. 11:17:15

1 MS. BREMNER: I'm sorry? 11:17:16

2 THE COURT: I was just asking your 11:17:17

3 opinion based off what the state just said. 11:17:20

4 MS. BREMNER: Right. I mean, the law 11:17:23

5 in Missouri is you do not have to all agree to 11:17:27

6 move on to the next instruction. They can be 11:17:32

7 hung and move on to the next instruction. I 11:17:35

8 know -- I can -- if you want, Judge, I can get 11:17:38

9 that for you. You're looking at me a little 11:17:40

10 skeptical. 11:17:44

11 THE COURT: No. No. No. I was just 11:17:45

12 looking at you. 11:17:46

13 MS. BREMNER: Okay. Because I know 11:17:47

14 this has come up before during closing 11:17:48

15 arguments and the state would say, you know, 11:17:51

16 before moving on -- they didn't do it in this 11:17:51

17 case, I'm not saying they did that, but it's 11:17:55

18 come up before so I've had to do research on 11:17:55

19 this. But they do not have to agree that it's 11:17:58

20 not first degree or second degree before 11:18:01

21 moving on to the next one. They can be hung 11:18:04

22 on it to go on to the next instruction. 11:18:08

23 THE COURT: Before I weigh in, does 11:18:16

24 anyone else have anything else to say? 11:18:19

25 MR. SANKAR: Just by way of 11:18:22

1 additions, Judge, the instructions give you 11:18:24
2 the connector between them. So if it says you 11:18:25
3 do not find him guilty of X then you are to 11:18:28
4 then consider whether he is guilty of this. 11:18:31
5 That's why I think that the instruction, as we 11:18:34
6 indicated, just say "be guided by the 11:18:36
7 instructions," to follow them is more than 11:18:38
8 sufficient. We haven't given a more specific 11:18:41
9 instruction because of the concern that that 11:18:43
10 would somehow indicate to them that we want 11:18:45
11 them to do something differently and I think 11:18:47
12 that we should be consistent. I think "be 11:18:49
13 guided by the instructions" is the most 11:18:52
14 appropriate path. 11:18:54

15 MR. MESSONNIER: If I may intervene, 11:18:57
16 the instruction in 402.05 basically lets them 11:18:57
17 set their own rules for how they're handling 11:19:01
18 deliberations and it's not up to the court to 11:19:03
19 tell them when they should move on, or -- they 11:19:06
20 could theoretically start at the bottom and 11:19:07
21 work their way up. 11:19:11

22 THE COURT: All right. So I think 11:19:12
23 sort of like I responded to the state 11:19:13
24 yesterday. 11:19:17

25 MS. BREMNER: Judge, I'm fine with 11:19:17

1 that. The instructions are there and they 11:19:18
2 do -- I think the instruction is consistent. 11:19:20
3 I was just trying to avoid, clearly, a hung 11:19:22
4 jury quite possibly by this question, and 11:19:26
5 maybe the next questions will -- maybe we 11:19:29
6 should look at the next questions before even 11:19:31
7 answering this question. 11:19:33
8 THE COURT: I've looked at them. 11:19:35
9 MS. BREMNER: Okay. 11:19:38
10 THE COURT: No. Can I have it back? 11:19:39
11 MS. CASTLE: Yes, Your Honor. 11:19:44
12 THE COURT: But just to complete my 11:19:44
13 thought, I think sort of like I was saying to 11:19:46
14 the state, though, yesterday, I don't think we 11:19:49
15 should deviate from what they suggest because 11:19:55
16 I don't want to give the indication that I'm 11:19:58
17 telling them that they should do something 11:20:00
18 other than what the instructions say. And so 11:20:02
19 I think my only response should be, and will 11:20:05
20 be, the jury shall be guided by the court's 11:20:10
21 instructions; all right? 11:20:12
22 MS. CASTLE: Yes, Your Honor. Thank 11:20:15
23 you. 11:20:16
24 THE COURT: All right. Next 11:20:16
25 question: If the jury cannot unanimously agree 11:20:56

1 on a proposition listed under Instruction 19, 11:21:02
2 how do we proceed? 11:21:05
3 MR. SANKAR: Judge, I apologize. 11:21:16
4 MR. MESSONNIER: 19 would be murder 11:21:21
5 first for Singleton, I'm assuming, if my 11:21:25
6 memory's correct. 11:21:29
7 MS. CASTLE: Yes. That's what I 11:21:34
8 recall as well. 11:21:36
9 MS. BREMNER: That's correct. 11:21:43
10 MS. CASTLE: I think the state's 11:21:44
11 response would be the same. The jury will be 11:21:45
12 guided by the instructions. 11:21:47
13 MR. SANKAR: (Nods head.) 11:21:49
14 THE COURT: It really doesn't matter 11:21:52
15 to me what instruction it was. I mean, I know 11:21:53
16 we're looking just for -- to know. Any 11:21:55
17 objection to the same response, the court's 11:22:07
18 rationale being the same as what I've 11:22:14
19 previously stated? 11:22:16
20 MS. BREMNER: I mean. 11:22:18
21 THE COURT: Go ahead. 11:22:38
22 MS. BREMNER: All the answers are in 11:22:39
23 the instructions, so I mean, I've never -- 11:22:41
24 these are very specific questions. I've 11:22:43
25 certainly never encountered where we actually 11:22:45

1 say please look at instruction number 11:22:49
2 something to pay attention to what's going on. 11:22:51
3 All the answers they need are in the 11:22:53
4 instructions, so I guess if that's. 11:22:55
5 THE COURT: So is there any 11:22:57
6 objection? 11:22:58
7 MS. BREMNER: No. 11:23:00
8 THE COURT: Counsel for the state? 11:23:02
9 MS. CASTLE: No, Your Honor. 11:23:03
10 THE COURT: Last question: If we all 11:23:48
11 cannot agree on Instruction 27, can we move on 11:23:51
12 to the next proposition? If we all cannot 11:23:57
13 agree on murder Count I for Darryl, do we move 11:24:02
14 on to the proposition. 11:24:08
15 MR. MESSONNIER: 27 is ACA on I. 11:24:22
16 MS. CASTLE: I think the state's 11:24:33
17 response would be the same. 11:24:37
18 THE COURT: Ms. Bremner, do you -- 11:24:44
19 did you get a chance to see this? 11:24:49
20 MS. BREMNER: Yes, Judge. Can I 11:24:50
21 think out loud? 11:24:54
22 THE COURT: Sure. 11:24:56
23 MS. BREMNER: I'm remembering one 11:24:56
24 other time where this kind of came up in a 11:25:00
25 situation and the court, because it looked 11:25:03

1 like they were going to hang, asked the jury 11:25:05
2 if there was anything they could agree on; and 11:25:09
3 if they could agree on something, to do so. 11:25:12
4 THE COURT: Was that in open court or 11:25:14
5 was that in the written response given back to 11:25:16
6 the jury? 11:25:20
7 MS. BREMNER: It was after the jury 11:25:22
8 had written that they were stuck on a certain 11:25:23
9 count. So he had them come back down and it 11:25:26
10 was in open court. 11:25:29
11 THE COURT: Right. In open court. 11:25:30
12 Right. 11:25:32
13 MS. BREMNER: And it was in open 11:25:32
14 court, yeah. 11:25:32
15 Again, I'm just thinking out loud. 11:25:33
16 If -- I don't know what situation they're in 11:25:36
17 right now, if they're getting to the point of 11:25:39
18 serious frustration or if they're just 11:25:46
19 curious, so anyways, that's just kind of my 11:25:49
20 thought process of what I'm going through 11:25:55
21 right now. Based on their questions, it seems 11:25:58
22 like they're seeking direction. Obviously, 11:26:02
23 the directions are in the instructions, but 11:26:04
24 maybe more specific direction from the court 11:26:08
25 would assist them. But if they hang, they 11:26:11

1 hang, I guess. I don't know. 11:26:13

2 MR. MESSONNIER: I believe the case 11:26:15

3 Ms. Bremner's referring to is the Fonville 11:26:15

4 case. The jury gave a response they had 11:26:18

5 reached a conclusion on some counts and not on 11:26:21

6 others. I'm not sure you've got that 11:26:25

7 communication. 11:26:29

8 MS. BREMNER: I'm actually just 11:26:29

9 talking about a case that is just in court in 11:26:31

10 a trial, but. 11:26:33

11 THE COURT: I have been involved in 11:26:33

12 cases where the jury has indicated that they 11:26:35

13 may be deadlocked and in certain counts, 11:26:42

14 issues, and the court has brought them down 11:26:49

15 and not asked them to indicate in what 11:26:51

16 direction or to what extent, but has asked 11:26:54

17 them, A, would further deliberations be of 11:26:58

18 assistance, and have they been able to agree 11:27:07

19 on anything. I have been involved in those 11:27:11

20 type situations. I don't know if -- that 11:27:15

21 we're there yet. 11:27:18

22 MS. BREMNER: Okay. 11:27:19

23 THE COURT: I'm not naive enough to 11:27:21

24 believe that the responses that we're giving 11:27:26

25 them are not going to create some frustration. 11:27:28

1 I'm not naive enough to think that prior to 11:27:32
2 our responses there hasn't been some 11:27:35
3 frustration. But I think that we are, 11:27:39
4 collectively, this group, we're in the same 11:27:41
5 position by way of what we can respond to now 11:27:45
6 because we're not in the position of knowing 11:27:48
7 that they are just deadlocked and stuck and 11:27:50
8 cannot move forward if they go back and read 11:27:53
9 the instructions and digest them. 11:27:56
10 So that being said, I think even with 11:28:01
11 a strenuous objection, my only response can be 11:28:09
12 what I've just stated these two previous 11:28:12
13 times. I will allow either side to object and 11:28:15
14 make a record on that objection, but I believe 11:28:19
15 that's where -- the posture that we're in. 11:28:21
16 MS. BREMNER: That's fine, Judge. 11:28:24
17 MS. CASTLE: The state agrees. 11:28:25
18 THE COURT: All right. By way of a 11:28:27
19 housekeeping matter, if they buzz over the 11:28:59
20 lunch period, I'm going to swear in Division 11:29:04
21 8's law clerk, Matt. He's going to help me. 11:29:07
22 Mr. Smith wants to do other things for some 11:29:13
23 reason. So anyway, so if Matt reaches out to 11:29:16
24 you, that's why. 11:29:21
25 MR. SANKAR: No problem. 11:29:22

1 THE COURT: All right. 11:29:23

2 MS. DOLLAR: Do you want us to e-mail 11:29:26

3 Matt our information as well? 11:29:31

4 THE COURT: I'll get it to him. 11:30:09

5 (Recess.) 13:56:20

6 THE COURT: This is in the matter of 13:56:20

7 State of Missouri vs. Reginald Jones. These 13:56:30

8 conversations are taking place outside the 13:56:33

9 empanelled jury and it's a question from the 13:56:38

10 jury: Referring to Instruction 19, last 13:56:40

11 sentence. Does the word, parentheses -- no. 13:56:45

12 Excuse me -- quote, "you" refer to the 13:56:50

13 individual juror or to jury as a whole? 13:56:54

14 MS. CASTLE: Be guided by the 13:57:22

15 instructions? I don't -- you will be guided 13:57:23

16 by the instructions is, Judge, the only 13:57:26

17 response I can understand in terms of that 13:57:28

18 particular question. 13:57:33

19 THE COURT: Say that again, 13:57:37

20 Ms. Castle. 13:57:39

21 MS. CASTLE: I think it's consistent 13:57:39

22 with the other questions and would reflect the 13:57:40

23 court's response of you will be guided by the 13:57:44

24 instructions. 13:57:47

25 THE COURT: Ms. Bremner. 13:57:49

1 MS. CASTLE: I don't know else to 13:57:50
2 answer that. 13:57:52
3 MS. BREMNER: I mean, there is an 13:57:56
4 instruction about their individual duty in 13:57:58
5 there, too, so I don't -- I would have to 13:58:00
6 agree it's all in the instructions. 13:58:03
7 THE COURT: The jury shall be guided 13:58:05
8 by the court's instructions. Any objection to 13:58:08
9 that? 13:58:11
10 MS. BREMNER: No. 13:58:11
11 MS. CASTLE: No. 13:58:12
12 MS. BREMNER: What was the question 13:58:13
13 again? Sorry. 13:58:14
14 THE COURT: Referring to Instruction 13:58:17
15 19, last sentence. Does the word, quote, 13:58:18
16 "you" refer to the individual juror or to the 13:58:22
17 jury as a whole? 13:58:26
18 MS. BREMNER: Can we say the 13:58:35
19 individual juror? 13:58:37
20 MS. CASTLE: I mean, I think that 13:58:42
21 would be you'll be guided by the court's 13:58:44
22 instruction. That sentence is in every single 13:58:47
23 one of the instructions. It would just change 13:58:51
24 the charge. So to define "you" on Instruction 13:58:53
25 19 would define "you" in all of the 13:58:58

1 instructions, so to me, it would just be you 13:59:01
2 will be guided by the court's instructions. 13:59:03
3 THE COURT: Unless I get some further 13:59:13
4 guidance, I'm sending it back up. 13:59:17
5 MS. BREMNER: Can I see it again? 13:59:19
6 THE COURT: All right. 13:59:56
7 MR. SANKAR: Thank you, Judge. 13:59:57
8 MS. CASTLE: Thank you. 13:59:58
9 (Recess.) 15:11:35
10 THE COURT: All right. There is a 15:11:35
11 question. And this is taking place outside of 15:12:02
12 our deliberating jury: There are jurors that 15:12:08
13 do not want to look at all of the possible 15:12:13
14 charges or follow the instructions. We are at 15:12:16
15 a standstill. Please advise. 15:12:19
16 MS. BREMNER: Can I see it? 15:12:38
17 MS. CASTLE: I think that's... 15:13:23
18 MS. BREMNER: Can I think out loud? 15:13:29
19 THE COURT: You may. 15:13:31
20 MS. BREMNER: Okay. I'm mostly 15:13:32
21 looking at the we are at a standstill 15:13:40
22 language. I think this goes back to what I 15:13:42
23 was thinking earlier, which is maybe bringing 15:13:48
24 them down and seeing if they can make a 15:13:51
25 decision as to any of the counts or even 15:13:53

1 asking if they -- more time would help. I 15:13:57
2 mean, I think that seems silly when they 15:14:00
3 said -- how much time they've spent and that 15:14:03
4 they've said they're at a standstill. It's 15:14:04
5 just something I'm thinking. I don't know. 15:14:08
6 THE COURT: What's the state's 15:14:13
7 position, or if you want to think out loud, 15:14:14
8 not necessarily take a position? 15:14:16
9 MS. CASTLE: I -- go ahead. 15:14:19
10 MR. SANKAR: Can we just have a 15:14:22
11 moment, Judge? 15:14:24
12 (Discussion held off the record.) 15:14:25
13 MS. CASTLE: Judge, I think that our 15:16:01
14 position would be if they could make a 15:16:04
15 determination as to any count, not any thing. 15:16:07
16 To me, if you ask on any thing, that somewhat 15:16:10
17 invades -- 15:16:14
18 MS. BREMNER: I meant count. Sorry. 15:16:15
19 MS. CASTLE: Sorry. I... 15:16:16
20 THE COURT: I'm following. 15:16:17
21 MS. CASTLE: And then I don't know -- 15:16:18
22 I don't think we're at a point, necessarily, 15:16:21
23 to see if a break -- I don't know when they 15:16:28
24 took a break, but if a break might help, 15:16:30
25 perhaps it's -- they've been talking for a 15:16:35

1 long time. 15:16:37

2 THE COURT: I was going to ask that. 15:16:38

3 When is the last time they took a break? 15:16:39

4 (Discussion held off the record.) 15:17:01

5 THE COURT: Like an hour ago, 45 15:17:01

6 minutes ago. 15:17:03

7 MS. BREMNER: So a break is not 15:17:04

8 necessary. 15:17:05

9 THE COURT: It might not hurt to 15:17:06

10 suggest one, though. So are both sides 15:17:08

11 agreeable that we call them down, ask them, 15:17:13

12 again, without telling us what, if they are -- 15:17:17

13 if they've been able to agree on at least a 15:17:26

14 count? 15:17:31

15 MS. BREMNER: Yeah. 15:17:32

16 THE COURT: Again, not telling me 15:17:33

17 what, how, who, when, where, any specifics, 15:17:34

18 but have you as a group been able to agree at 15:17:39

19 least to a count? 15:17:44

20 MS. CASTLE: I think that works. 15:17:45

21 MS. BREMNER: Yeah. 15:17:46

22 THE COURT: Also, can I inquire as to 15:17:48

23 when the last time they -- or tell them, it's 15:17:50

24 my understanding that they took a break less 15:17:53

25 than an hour ago, 45 minutes ago, and if maybe 15:17:56

1 taking a nice break again would help recharge 15:18:00
2 their batteries? 15:18:04
3 MS. CASTLE: Yes. 15:18:05
4 THE COURT: Now, let's do worst-case 15:18:06
5 scenario. What if they say to the first 15:18:09
6 question no, we haven't agreed on anything. 15:18:13
7 Then what? 15:18:20
8 MS. CASTLE: I think that would 15:18:22
9 prompt -- 15:18:24
10 THE COURT: Yeah. Go take a break. 15:18:26
11 MS. CASTLE: -- the second question. 15:18:28
12 And if they said no, if more time -- then ask 15:18:29
13 if more time would help. And if they say no, 15:18:35
14 then... 15:18:41
15 THE COURT: Okay. So here's what I'm 15:18:43
16 going to do, unless you guys just tell me this 15:18:45
17 is a horrible idea. And it may be. I'm going 15:18:47
18 to use the -- try to use the psychological 15:18:56
19 effect of the robe by way of being a little 15:19:01
20 more assertive. If they say no -- and again, 15:19:03
21 I'm playing worst-case scenario -- I'm going 15:19:07
22 to tell them, we're going to take a break. 15:19:11
23 Take a break, go outside, jog, get on 15:19:13
24 their phone, talk to somebody about anything 15:19:16
25 other than this case, obviously, and then 15:19:20

1 you're going to go back upstairs and you're 15:19:22
2 going to get back to work. It's a hard case. 15:19:25
3 It should take a long time. This is nothing 15:19:28
4 unusual. It should take a long time. Get 15:19:31
5 back upstairs and get to work. We've got 15:19:34
6 time. 15:19:37
7 MS. CASTLE: Okay. 15:19:38
8 THE COURT: Anybody have a problem 15:19:40
9 with that? I mean, if you do, Ms. Bremner, I 15:19:42
10 don't have to do that. 15:19:47
11 MS. BREMNER: I think the statement 15:19:52
12 that there are jurors refusing to consider 15:19:58
13 instructions may warrant a mistrial. 15:20:01
14 THE COURT: I don't know exactly what 15:20:07
15 that means, though. And so if I tell them to 15:20:08
16 go take a break, get upstairs and go to work, 15:20:12
17 then collectively, I'm going to expect them to 15:20:16
18 go to work. 15:20:21
19 MS. BREMNER: I understand. My 15:20:23
20 understanding is they just took a break. 15:20:24
21 THE COURT: I understand. 15:20:27
22 MS. BREMNER: Okay. 15:20:28
23 THE COURT: I understand. But I'm 15:20:35
24 sending them on a break and then I'm sending 15:20:36
25 them up to go to work. And again, that's -- 15:20:40

1 I'm going to let you say what you need to 15:20:49
2 say -- that's under the guise of worst-case 15:20:51
3 scenario. They haven't agreed on anything. 15:20:55
4 If they've agreed on something, that's a 15:20:58
5 positive spin of, okay, you've agreed on 15:21:00
6 something. You got a little more work to do. 15:21:03
7 And I'm probably still going to suggest we 15:21:06
8 take a break. 15:21:09
9 MS. BREMNER: All right. So you're 15:21:10
10 first asking if they've agreed to anything. I 15:21:11
11 mean, not anything, to a count. 15:21:12
12 THE COURT: A count. 15:21:14
13 MS. BREMNER: We need to go down and 15:21:15
14 get Mr. Jones before you bring them down. 15:21:16
15 THE COURT: That's fine. Right now, 15:21:19
16 though, there's no objection to what I've just 15:21:26
17 stated? 15:21:28
18 MS. BREMNER: No. 15:21:29
19 MS. CASTLE: No. 15:21:29
20 (Recess.) 15:26:43
21 MS. BREMNER: I'm okay with the first 15:26:43
22 part seeing if they have reached a result, but 15:26:44
23 I think your second part of telling them to 15:26:47
24 keep working or take a break and then go back 15:26:50
25 to work, I feel like these jurors have put a 15:26:52

1 lot of time into this, and please don't take 15:26:55
2 what I'm going to say the wrong way, I feel 15:27:01
3 like it might be a little bully-ish? 15:27:04
4 THE COURT: Okay. I take no offense 15:27:10
5 to that. 15:27:12
6 MS. BREMNER: Thank you, Judge. I 15:27:12
7 think I would prefer language along the lines 15:27:13
8 of more would it help to have more time 15:27:17
9 instead of -- and I know -- that would be my 15:27:20
10 objection, Judge. 15:27:24
11 THE COURT: Okay. By way of saying 15:27:25
12 go upstairs, get to work, the tone that that 15:27:30
13 might set? 15:27:34
14 MS. BREMNER: Right. 15:27:35
15 THE COURT: Okay. 15:27:35
16 MS. BREMNER: Because I think we 15:27:36
17 would all agree they have put in a lot of 15:27:37
18 hours. They have taken this very seriously. 15:27:39
19 It's what we all ask for. It's what we all 15:27:42
20 want. I know the court appreciates it. I'm 15:27:44
21 just concerned that -- I don't know. 15:27:47
22 THE COURT: I understand. 15:27:54
23 MS. BREMNER: I'm concerned of how 15:27:55
24 they may interpret what the court is saying. 15:27:57
25 I guess I'm concerned of how they might 15:27:59

1 interpret what the court is saying. 15:28:04

2 THE COURT: Point well taken. State. 15:28:06

3 MS. CASTLE: Judge, I am comfortable 15:28:07

4 with the court's discretion on how to address 15:28:09

5 them. I think we've made it clear what points 15:28:12

6 we want the court to address and I'm 15:28:15

7 comfortable with the court's discretion. 15:28:17

8 The other thing I think we wanted to 15:28:21

9 just put out there was, were you making a 15:28:23

10 formal motion on a mistrial earlier? 15:28:26

11 MS. BREMNER: No. 15:28:28

12 MS. CASTLE: Okay. 15:28:29

13 THE COURT: So Ms. Bremner, let me 15:28:29

14 ask this -- and your point is well taken -- 15:28:31

15 again, I'm just playing worst-case scenario. 15:28:36

16 Done the way that you suggested, do you think 15:28:41

17 more time would help, what if they say, Judge, 15:28:43

18 unequivocally no? 15:28:46

19 MS. BREMNER: Then I would ask for 15:28:48

20 the mistrial. 15:28:50

21 THE COURT: What would the state's 15:28:51

22 position be then? 15:28:53

23 MR. SANKAR: This is my 15:28:59

24 understanding, Judge. If the jury comes down 15:29:00

25 and says we haven't agreed to anything and you 15:29:03

1 say would more time help, I think that then 15:29:05
2 the second part of what you said before might 15:29:08
3 be appropriate first, which is how about a 15:29:10
4 break? Would a break help and come back and 15:29:14
5 let me know whether you think more time would 15:29:15
6 help? That's what I would suggest before 15:29:17
7 going to the drastic end of a mistrial. We 15:29:20
8 don't know exactly where they are in that 15:29:23
9 disagreement. 15:29:27
10 THE COURT: So procedurally, would it 15:29:27
11 be, have you agreed to any count -- again, 15:29:30
12 worst-case scenario -- no, we have not. I 15:29:32
13 would say, how about we take a break, then 15:29:36
14 would come back, or do you think taking a 15:29:38
15 break would help and then they say no. Then I 15:29:43
16 guess she would request, at the bench, a 15:29:52
17 mistrial. 15:29:56
18 MR. MESSONNIER: Only question I 15:29:59
19 would ask after they say they don't want to 15:30:00
20 break, which is do you think more deliberation 15:30:02
21 would help? 15:30:04
22 MR. SANKAR: More time first and then 15:30:13
23 after that maybe take a break. 15:30:16
24 MS. BREMNER: I would just ask that 15:30:22
25 they be posed as questions instead of 15:30:31

1 commands. 15:30:33

2 THE COURT: So any agreement first, 15:30:35

3 then next question would be, again, assuming 15:30:44

4 no, would be -- 15:30:48

5 MS. BREMNER: Do you think more time. 15:30:56

6 THE COURT: Would more time be 15:30:50

7 helpful. Again, worst-case scenario, no, 15:30:52

8 what's the next question? 15:31:05

9 MS. BREMNER: Would taking a break 15:31:08

10 help. 15:31:09

11 THE COURT: Worst-case scenario. 15:31:15

12 MS. BREMNER: I would make a mistrial 15:31:18

13 request. 15:31:20

14 MS. CASTLE: Judge, I just have a 15:31:20

15 question. Do we need to be lining up the 15:31:24

16 questions on whether or not we have a not 15:31:26

17 worst-case scenario? Like if they came back 15:31:30

18 and have you made a decision as to anything, 15:31:33

19 yes, then they go back upstairs? You're just 15:31:36

20 going to send them upstairs and not ask about 15:31:40

21 a break? 15:31:45

22 THE COURT: Well, if they say they 15:31:45

23 have an agreement, I'm going to ask them if 15:31:46

24 they -- it's my understanding they took a 15:31:50

25 break about an hour ago. Would it be helpful 15:31:52

1 to take another break. If they say no, I'm 15:31:56
2 going to ask would more time be helpful. If 15:32:00
3 they don't want a break -- another break, 15:32:08
4 would more time be helpful in their 15:32:10
5 deliberations. 15:32:15
6 MS. CASTLE: Okay. 15:32:16
7 MS. BREMNER: (Nods head.) 15:32:19
8 THE COURT: And then we'll go from 15:32:20
9 there. 15:32:21
10 MS. BREMNER: So if they say they are 15:32:22
11 in agreement on any count, you're going to go 15:32:23
12 up and ask them to fill out the forms for 15:32:27
13 those counts? 15:32:29
14 THE COURT: Huh-uh. 15:32:31
15 MS. BREMNER: Okay. You're just 15:32:32
16 going to ask them to keep deliberating; if 15:32:33
17 deliberations would help. 15:32:37
18 THE COURT: Yes. All right. I'm 15:32:38
19 going to bring them down. So make your 15:32:40
20 request, if necessary, at the bench, not -- 15:32:46
21 MS. BREMNER: Yeah. 15:32:49
22 MR. SANKAR: Judge may we add one 15:34:31
23 other thing? 15:34:32
24 THE COURT: Yes. 15:34:33
25 MR. SANKAR: Before Your Honor 15:34:34

1 mentioned that saying to the jury this is a 15:34:35
2 difficult case, you're not -- 15:34:40
3 THE CLERK: All rise. 15:34:40
4 THE COURT: Hold on. Hold on. 15:34:40
5 MR. SANKAR: -- that the deliberation 15:34:47
6 time frame is not unusual, and then posing the 15:34:48
7 question do you think more time would help to 15:34:51
8 let them know that this isn't something where 15:34:53
9 you're up against a clock before asking that 15:34:56
10 question as one thing, maybe another 15:34:58
11 suggestion to take into account here as we 15:35:00
12 move on that roadmap. 15:35:02
13 THE COURT: Ms. Bremner. 15:35:03
14 MS. BREMNER: That's fine. 15:35:04
15 THE COURT: That's agreeable? 15:35:06
16 MS. BREMNER: Yes. That's fine, 15:35:08
17 Judge. Sorry. 15:35:09
18 THE COURT: Okay. So Mr. Sankar, 15:35:09
19 you're suggesting to say that when? 15:35:12
20 MR. SANKAR: Right after you ask if 15:35:16
21 there's any agreement to any count. If they, 15:35:18
22 for instance, say no, then say, there's no 15:35:19
23 time frame to this. This is a difficult case. 15:35:19
24 Take your time with it, however Your Honor 15:35:23
25 would like to phrase that, and then adding in 15:35:23

1 would more time help you and then following 15:35:25
2 the questions in the sequence we just 15:35:28
3 discussed. 15:35:29
4 THE COURT: All right. Mr. Smith. 15:35:30
5 (The jury entered the courtroom.) 15:36:00
6 THE COURT: Good afternoon, ladies 15:36:00
7 and gentlemen. You may be seated. 15:36:01
8 Mr. Foreman. 15:36:07
9 FOREPERSON: Yes, sir. 15:36:08
10 THE COURT: You may remain seated. 15:36:09
11 I'm going to ask you a question and I do not 15:36:11
12 want any specifics; okay? 15:36:13
13 FOREPERSON: Okay. 15:36:16
14 THE COURT: Again, no specifics, but 15:36:17
15 has the jury been able to reach an agreement 15:36:21
16 on any of the counts? And again, I don't want 15:36:25
17 any specifics, but -- 15:36:28
18 THE FOREMAN: Yes, Your Honor. 15:36:31
19 THE COURT: You have been able to 15:36:32
20 reach an agreement at least on one of the 15:36:33
21 counts? 15:36:36
22 FOREPERSON: Yes, Your Honor. 15:36:37
23 THE COURT: All right. First off, I 15:36:38
24 went to tell the group, all of the parties 15:36:41
25 thank you tremendously. We recognize that you 15:36:45

1 have done a tremendous job thus far. This is 15:36:50
2 not easy. It was a difficult case and you 15:36:55
3 have done your job. These cases are difficult 15:36:58
4 and they take time and we recognize that, and 15:37:03
5 we thank you. 15:37:07
6 Mr. Foreman, I'm going to ask you, do 15:37:09
7 you think additional time would be helpful for 15:37:15
8 the jury? 15:37:17
9 FOREPERSON: Upon clarification of 15:37:18
10 some instructions. 15:37:25
11 THE COURT: Okay. All right. Let me 15:37:31
12 ask this: It's my understanding that the jury 15:37:34
13 took a break probably just a little bit over 15:37:37
14 an hour ago; is that correct? 15:37:41
15 THE FOREPERSON: Yes, Your Honor. 15:37:43
16 THE COURT: Do you think that another 15:37:43
17 break would be helpful? 15:37:45
18 FOREPERSON: Right now, Your Honor? 15:37:50
19 THE COURT: Yes. 15:37:51
20 FOREPERSON: No. 15:37:52
21 THE COURT: Okay. So Counsel, 15:37:54
22 approach. 15:38:28
23 (Counsel approached the bench and the 15:38:52
24 following proceedings were held:) 15:38:53
25 THE COURT: I didn't hear them say 15:38:53

1 that they could not. I mean, he said 15:38:54

2 clarification and you know I can't give it. 15:38:57

3	MR. SANKAR: What Sara's saying is	15:40:10
4	ask them to return upstairs and send back a	15:40:12
5	question and see whether or not we can -- if	15:40:15
6	there's anything different than we can say;	15:40:17
7	otherwise, it will just be you'll be guided by	15:40:20
8	the instructions response, but I think they	15:40:23
9	aren't saying that they're unable to	15:40:26
10	deliberate. They're just asking about a	15:40:28
11	question regarding instructions. That's	15:40:31
12	probably where we are.	15:40:35

13 THE COURT: Ms. Bremner. 15:40:36

14	MS. BREMNER: I think we should --	15:40:37
15	based on that answer and based on how we've	15:40:52
16	answered all their questions, I think the most	15:40:55
17	we should do is ask them to whatever count or	15:40:57
18	counts that they can come to an agreement on,	15:41:01
19	come to an agreement on and that's it. I	15:41:03
20	mean, it's not like we can answer their	15:41:06
21	questions that they've asked unless we do. We	15:41:09
22	haven't done it yet, so.	15:41:12

23 THE COURT: Well, we can't give them 15:41:14
24 any direction. I mean, we can guess if they 15:41:21
25 asked for clarification, they're going to ask 15:41:25

1 for specifics. We're not going to give them 15:41:27
2 specifics. We're going to give more 15:41:30
3 directed -- but we're going to get very 15:41:33
4 specific questions of which we can't answer 15:41:35
5 and so I'm inclined to send them upstairs, 15:41:38
6 tell them to continue to deliberate, and then 15:41:43
7 we'll just go from there. 15:41:46
8 MS. CASTLE: The clarification I can 15:41:49
9 give you is to follow the instruction. Like, 15:41:57
10 is there -- because I can't give the answer. 15:42:00
11 Maybe we've talked about it, right, so can the 15:42:03
12 court say, I understand you have questions 15:42:06
13 regarding the instructions. The court's 15:42:08
14 response will continue to be that -- 15:42:10
15 THE COURT: The problem with doing 15:42:13
16 that is they might have a question of 15:42:14
17 something else that if I put that, if I say 15:42:21
18 that, they won't send down the question. 15:42:25
19 MS. CASTLE: Okay. 15:42:27
20 THE COURT: So I would be afraid to 15:42:29
21 say that. 15:42:31
22 MS. CASTLE: Fair enough. 15:42:35
23 THE COURT: So just short of -- I 15:42:36
24 think just have them go upstairs to 15:42:38
25 deliberate. 15:42:41

1 MS. CASTLE: I think that's fine. 15:42:42

2 THE COURT: I mean, Ms. Bremner, 15:42:43

3 you're saying to ask for the specific count. 15:42:44

4 I mean, I'm pretty sure we'll get ourselves in 15:42:50

5 trouble for that. What's the meaning for 15:42:52

6 asking for the specific counts? 15:43:00

7 MS. BREMNER: It sounds like they're 15:43:00

8 hung. I am just saying sending them back up 15:43:05

9 when they've made it clear that they can't 15:43:09

10 reach a decision doesn't make a lot of sense, 15:43:10

11 but if they've reached a decision on any 15:43:13

12 counts, we can move forward with that. 15:43:16

13 MS. CASTLE: That's not what he said, 15:43:19

14 no. 15:43:21

15 THE COURT: Well, here's the deal. 15:43:22

16 They can have decisions off the record. We 15:43:23

17 don't know. It could be one of the four 15:43:27

18 counts. So, I mean, they might say, look, 15:43:30

19 we're going to go upstairs, we're going to 15:43:34

20 come back downstairs and say we can't decide 15:43:40

21 the one last one and then they'll come and 15:43:40

22 tell us that. But since we don't know, I'm 15:43:42

23 not going to make them choose right now. 15:43:44

24 They're going to tell us at the end of the day 15:43:47

25 that they can't. Right now I think they've 15:43:50

1 decided on some counts -- a count, at least. 15:43:54
2 I mean -- go ahead. 15:43:57
3 MS. CASTLE: Okay. I was just going 15:43:59
4 to say it's a quarter to 4. They asked to 15:44:01
5 leave yesterday at 4:00. The court can ask 15:44:03
6 them to return tomorrow to continue their -- 15:44:06
7 whether -- 15:44:06
8 THE COURT: They left at 4:30 because 15:44:06
9 I think somebody has to be gone by 5:30 or 15:44:11
10 something like that. So they know how to ask 15:44:14
11 to leave. 15:44:15
12 (The proceedings returned to open 15:44:27
13 court.) 15:44:29
14 THE COURT: All right. Again, I want 15:44:29
15 to thank you for the time that you've put in. 15:44:35
16 And I am going to send you upstairs to 15:44:39
17 continue your deliberations; okay? All right. 15:44:42
18 All rise. 15:44:46
19 (The jury exited the courtroom.) 15:45:18
20 THE COURT: Here's what -- and I'm 15:45:18
21 not betting the farm on this, but if they 15:45:21
22 don't decide that they just want to give up in 15:45:26
23 total, I would anticipate that they would come 15:45:31
24 back by 4:30 and say, you know, they want to 15:45:34
25 come back in the morning because probably 15:45:37

1 there are other obligations and that's been 15:45:39
2 their pattern. All right. 15:45:42
3 MS. CASTLE: Thank you. 15:45:45
4 MR. SANKAR: Thank you, Judge. 15:45:47
5 (Recess.) 15:45:48
6 THE COURT: Okay. Again, this 16:06:03
7 discussion is taking place outside of our 16:06:13
8 deliberating jury and the question reads: 16:06:16
9 Does the definition of, quote, "sudden 16:06:19
10 passion" in Instruction 21 have the same 16:06:22
11 meaning as in, quote, "sudden passion" in 16:06:25
12 Instruction 7? Please define the definition 16:06:29
13 of, quote, "sudden passion" in regards to 16:06:33
14 Instruction 21. 16:06:36
15 MS. CASTLE: It's defined in there, 16:07:01
16 correct? 16:07:03
17 THE CLERK: I don't think it's 16:07:05
18 defined in 21. No. 16:07:06
19 MS. CASTLE: Sudden passion is not 16:07:09
20 included -- (inaudible.) 16:07:11
21 MR. SANKAR: Well, let me -- Judge, 16:07:29
22 if we take a quick break just to see what the 16:07:32
23 options are here, whether or not there can be 16:07:35
24 a reference to be guided by the instruction or 16:07:39
25 whether or not there can or could be something 16:07:43

1 different. Do you mind if we do something? 16:07:45

2 THE COURT: You can do that, but let 16:07:48

3 me throw this out there. I get where we are 16:07:50

4 and it obviously has to be in error if they're 16:07:57

5 referring to an instruction where that 16:08:03

6 definition is not included. It has to be. 16:08:05

7 Ms. Castle, you can sit down. 16:08:09

8 MS. CASTLE: I'm sorry. 16:08:11

9 THE COURT: No. I mean, I'm causing 16:08:12

10 you to do that. 16:08:14

11 Here's my word of I don't know if 16:08:18

12 it's caution, but food for thought, I guess. 16:08:21

13 Obviously, they're referring to an instruction 16:08:24

14 that does have that. If we even thought we 16:08:27

15 knew and suggested that instruction then we're 16:08:32

16 pointing them in a direction of an instruction 16:08:34

17 and we're being speculative as to whatever 16:08:37

18 that instruction is. And that would be 16:08:40

19 fearful, in my opinion. 16:08:43

20 MR. SANKAR: Uh-huh. 16:08:46

21 THE COURT: But I'm not trying to 16:08:46

22 preclude you in figuring out what the options 16:08:49

23 are. But, I mean, right now we're stuck with 16:08:52

24 was it 21 and 7 in their question? Anyway. 16:08:54

25 Ms. Bremner. 16:09:00

1 MS. BREMNER: Can I see 21? 16:09:02

2 MS. CASTLE: Can I see 7? 16:09:05

3 (Discussion held off the record.) 16:10:51

4 MS. CASTLE: Judge, I think we're all 16:10:51

5 understanding now why it's confusing, because 16:10:53

6 none of the definitions have been given in 16:10:55

7 Instruction 21. All -- so this entire page 16:10:57

8 appears to not be included. So we had, I 16:11:01

9 think, at one point done it, so we don't know 16:11:09

10 if there's a case -- and I'm sure that -- 16:11:12

11 where we could provide them with a corrected 16:11:18

12 instruction that gives them the definitions. 16:11:21

13 THE COURT: Say that one more time. 16:11:23

14 MS. CASTLE: Basically, we had an 16:11:25

15 instruction that we all agreed upon -- 16:11:27

16 THE COURT: Okay. 16:11:29

17 MS. CASTLE: -- that included the 16:11:30

18 definition of murder in the second degree as 16:11:31

19 it related to Count III. 16:11:34

20 THE COURT: Okay. 16:11:38

21 MS. CASTLE: It was submitted to the 16:11:39

22 court that was agreed upon by both the 16:11:41

23 parties. 16:11:43

24 THE COURT: Okay. 16:11:43

25 MS. CASTLE: That's not the 16:11:43

1 instruction that was given to the jury. But 16:11:44
2 in our -- we had discussed at one point 16:11:47
3 pulling out the definitions and putting them 16:11:50
4 on a definitions page. 16:11:52
5 THE COURT: Right. Right. 16:11:54
6 MS. CASTLE: And I think that that 16:11:56
7 makes sense as to why the jury is struggling 16:11:57
8 with the instruction because the definitions 16:12:00
9 on the -- 16:12:03
10 THE COURT: Weren't included. 16:12:03
11 MS. CASTLE: -- instruction are not 16:12:04
12 included, so we're not changing the 16:12:05
13 instruction other than to give them the 16:12:08
14 definitions. And so if we agree to give a 16:12:11
15 corrective instruction that was agreed upon in 16:12:14
16 the instructions conference, they would be 16:12:17
17 guided by the instruction that we approved and 16:12:21
18 would be given the definitions as they apply. 16:12:25
19 THE COURT: Understood. 16:12:29
20 (Discussion held off the record.) 16:12:53
21 MS. BREMNER: Can I have a second, 16:13:08
22 Judge? 16:13:12
23 THE COURT: Sure. 16:13:12
24 (Discussion held off the record.) 16:13:19
25 THE COURT: Ms. Castle, you can sit 16:17:00

1 down. 16:17:02

2 MS. CASTLE: Thank you, Your Honor. 16:17:02

3 MS. BREMNER: All right. So I just 16:17:02

4 wanted to check and see if there were other 16:17:05

5 options or what options we have, because I had 16:17:07

6 said, I know, like, caught an instructional 16:17:10

7 error in another court before, but I think 16:17:15

8 this is the problem. If we were to send a 16:17:16

9 corrected -- or instruction, which I'm not 16:17:19

10 sure -- I think instructional error we're 16:17:22

11 looking at a mistrial, which I hate saying 16:17:25

12 again. 16:17:28

13 If we say we all agree to a new -- an 16:17:28

14 amended instruction with the definitions, the 16:17:33

15 problem I see is that I can't -- I never was 16:17:36

16 able to address that in closing arguments and 16:17:39

17 I think that would be a huge prejudice to the 16:17:42

18 defendant to have not been able to address -- 16:17:44

19 to basically explain what that instruction 16:17:47

20 means. 16:17:50

21 And so if it had -- sorry. Just a 16:17:51

22 second. If it had -- the correct instruction 16:17:56

23 had been included, it's something that I could 16:17:59

24 have addressed in closing, but without it 16:18:01

25 there, there is no way to address that or to 16:18:03

1 apply the facts to it because it's not been 16:18:07
2 included in the packet and so I think it would 16:18:09
3 create a prejudice, so I don't believe we can 16:18:11
4 correct it with an amended instruction. I 16:18:14
5 would object to it for that reason. 16:18:17
6 Because there isn't a way to correct 16:18:19
7 it, I think now we're looking at instructional 16:18:20
8 error and it would be a mistrial. Of course, 16:18:23
9 though, I would ask that since they have 16:18:26
10 reached some sort of decision on any count 16:18:27
11 that that -- we get that before declaring a 16:18:30
12 mistrial. That would be my request, Judge, if 16:18:35
13 that makes sense. 16:18:40
14 THE COURT: What count is that? 16:18:46
15 MS. CASTLE: III, the one with the 16:18:48
16 instruction issue? 16:18:50
17 THE COURT: Uh-huh. 16:18:51
18 MS. CASTLE: It's Instruction No. 21. 16:18:52
19 THE COURT: What's the state's 16:19:00
20 response? 16:19:02
21 MS. CASTLE: Your Honor, we had a 16:19:02
22 very lengthy instructions conference in which 16:19:03
23 we discussed all of the instructions to 16:19:06
24 include the definitions specifically as they 16:19:10
25 relate to Instruction No. 21. 16:19:13

1 Defense counsel indicated she -- 16:19:16
2 because those terms were defined in more than 16:19:20
3 one instruction that she wanted a definitions 16:19:23
4 page. We came to a conclusion after 16:19:26
5 significant discussion that we would put those 16:19:28
6 definitions back in with each instruction, and 16:19:47
7 there was no objection to those definitions. 16:19:49
8 Defense counsel had plenty of notice 16:19:49
9 to know that she would need to or could have 16:19:49
10 to address those specific definitions in the 16:19:49
11 instructions in her closing argument should 16:19:49
12 she have chosen to. The fact that this page 16:19:51
13 as it relates to Count III was omitted was 16:19:52
14 only as a result of the question on the 16:19:55
15 definitions page versus on the page of the 16:19:57
16 instruction, not whether or not those 16:20:00
17 definitions should be included. 16:20:03
18 The corrective action doesn't change 16:20:05
19 the page other than to include the page that 16:20:07
20 has simply the three terms that are defined in 16:20:10
21 murder 2nd. All of the parties had notice of 16:20:13
22 that specific definition as it relates to 16:20:16
23 sudden passion for Darryl Singleton and it was 16:20:19
24 inadvertently omitted. I don't think that 16:20:23
25 there was ever an objection to the language in 16:20:26

1 the murder in the second degree that's been 16:20:28
2 submitted to the court and was submitted in 16:20:30
3 the state's proposed instructions, state's 16:20:33
4 final instructions, defense counsel's 16:20:35
5 instructions. 16:20:37

6 MS. BREMNER: I think I need a point 16:20:38
7 of clarification. This instruction, the one 16:20:39
8 that's on this page? 16:20:43

9 MS. CASTLE: That's Instruction 7. 16:20:45
10 Instruction 21 included when we had our 16:20:47
11 discussion had the definitions as they relate 16:20:51
12 when we did them with the mockers and there 16:20:55
13 was a conversation prior to that about having 16:20:57
14 a separate definitions page because your 16:20:59
15 instructions included a definitions page. Our 16:21:01
16 instructions included the definitions on each 16:21:04
17 count. That included sudden passion as it 16:21:07
18 relates to Count III because we've always 16:21:09
19 submitted murder in the second degree for both 16:21:13
20 Count I and Count III. So we didn't agree to 16:21:15
21 not put the definitions in Count III. You've 16:21:20
22 known all along that sudden passion and murder 16:21:23
23 in the second degree was being submitted. 16:21:27
24 There's no surprise. We have -- that was 16:21:29
25 supposed to be in there. 16:21:32

1 Whether it was supposed to be 16:21:33
2 included in a separate definitions page or as 16:21:34
3 part of the instruction, you said that your 16:21:37
4 issue was that you couldn't argue it in 16:21:40
5 closing argument. 16:21:42
6 MS. BREMNER: This instruction, this 16:21:43
7 paragraph as used in this instruction sudden 16:21:45
8 passion, you're saying this would be the exact 16:21:47
9 instruction you would send back to the jury? 16:21:50
10 MS. CASTLE: No. I -- 16:21:52
11 MS. BREMNER: That's my point. 16:21:52
12 Sorry. 16:21:53
13 MS. CASTLE: No. I would send back a 16:21:53
14 corrected instruction that was agreed upon by 16:21:55
15 both the parties that included sudden passion 16:21:57
16 as it relates to Darryl Singleton, which was 16:22:00
17 without objection in what was the proposed 16:22:03
18 instructions that was supposed to be in the 16:22:07
19 instruction. 16:22:09
20 MS. BREMNER: Okay. But that's not 16:22:09
21 what we have and that's what I'm trying to 16:22:11
22 say. That's not what we have and the 16:22:13
23 definitions page didn't have what you're 16:22:15
24 referring to, it only had this one, and so 16:22:18
25 because we don't have -- never had the 16:22:21

1 definitions page with that and because the 16:22:23
2 final packet was agreed upon doesn't have it, 16:22:25
3 I never agreed to it because it didn't -- it 16:22:28
4 doesn't exist. It's not in the packet. So I 16:22:31
5 didn't agree to something that's not here. 16:22:34
6 I didn't ever agree to all of the 16:22:36
7 state's instructions; in fact, I submitted all 16:22:38
8 of my own verdict directors and had 16:22:40
9 objections. 16:22:44
10 This isn't -- wasn't included -- this 16:22:44
11 was, what we have was included, but what 16:22:46
12 they're submitting is a completely different 16:22:49
13 instruction. That is instructional error. 16:22:51
14 We can't go forward with amending the 16:22:53
15 instruction. We either have to leave it as is 16:22:56
16 and let them just figure it out, but I think 16:23:01
17 it's a problem because we didn't include it 16:23:02
18 and so I think we're looking at a mistrial at 16:23:04
19 least on Count III. 16:23:07
20 MS. CASTLE: What was your definition 16:23:09
21 of sudden passion under the murder in the 16:23:11
22 second degree for Darryl Singleton? 16:23:15
23 THE COURT: Let me jump in real 16:23:16
24 quick. Whether or not there was an agreement, 16:23:19
25 nonagreement, notice, non-notice, I think that 16:23:20

1 ship has sailed. We are looking at whether or 16:23:25
2 not we have error by way of instruction. And 16:23:33
3 really, it comes down to can it be corrected. 16:23:43
4 I think that's the crux of it. 16:23:53
5 MR. MESSONNIER: Can I speak? Plain 16:23:59
6 error requires us to look at the instructions 16:24:01
7 as a whole. And the term is defined elsewhere 16:24:03
8 in the instructions. The question now, are we 16:24:12
9 going to clarify to the jury that that 16:24:14
10 instruction applies to this instruction? 16:24:14
11 THE COURT: Well, I'm not taking 16:24:16
12 issue with what you said at all, and I'm 16:24:18
13 thinking out loud, if I can borrow that, Ms. 16:24:20
14 Bremner. Well, one of the issues, as I see 16:24:38
15 it, is, yes, it was defined somewhere. But if 16:24:41
16 the jury has a question now specifically to 16:24:47
17 this Count III, the fact that it was defined 16:24:50
18 somewhere else and if they came back with a 16:24:52
19 guilty on this particular count, can that 16:24:55
20 be -- can that error be corrected for the mere 16:25:04
21 fact that it was defined somewhere else on 16:25:07
22 another count? 16:25:10
23 MR. MESSONNIER: Quickly tell the 16:25:11
24 jury that that definition applies to this 16:25:12
25 count as well. I think a corrective 16:25:14

1 instruction would cure the error. 16:25:17

2 THE COURT: What's the authority on 16:25:20

3 that? 16:25:21

4 MR. MESSONNIER: I know I'd have to 16:25:25

5 look at cases specifically. I know there's 16:25:26

6 cases where they've submitted an instruction 16:25:28

7 correcting after deliberations has begun. I 16:25:31

8 don't know if this is responsive to the 16:25:34

9 question, but when you notice the typo, fixing 16:25:35

10 the typo. There are cases on that. If the 16:25:39

11 court wants, I can quickly head downstairs and 16:25:44

12 find some. 16:25:47

13 THE COURT: I don't know that you 16:25:47

14 need to do it quickly. I know I need it. 16:25:48

15 Mr. Smith, go ahead. 16:25:51

16 MS. CASTLE: The instruction that the 16:25:56

17 court sent that said the court's version of 16:25:57

18 the instructions included the definition of 16:26:00

19 sudden passion as it relates, and that was on 16:26:02

20 Sunday night. So I know that the question is 16:26:06

21 whether or not necessarily -- not necessarily 16:26:10

22 whether or not there's notice or whether or 16:26:12

23 not -- I mean, but I guess, again, my point is 16:26:15

24 that this term has been defined and. 16:26:18

25 THE COURT: Well, it's been defined 16:26:23

1 at least to Count I, I know. I think it was 16:26:25
2 the intention to have it defined in Count III, 16:26:27
3 but it wasn't. And now they have a question 16:26:30
4 about it and can we correct this. 16:26:32
5 I mean, I would like to think we can. 16:26:40
6 I don't know that we can. I don't know we 16:26:43
7 can, I don't know that we can't, you know. 16:26:45
8 Obviously, instructional error is the third 16:26:57
9 rail. 16:27:03
10 Go up to the jury -- let me ask this. 16:27:06
11 It's 4:30. They've usually been knocking off. 16:27:10
12 The fact that they sent down a question says 16:27:13
13 that they were willing to deliberate after I 16:27:16
14 sent them upstairs. Does anybody have a 16:27:19
15 problem with Zach telling them that we're 16:27:21
16 trying to -- we're trying to resolve the 16:27:27
17 issue. We're trying to resolve their 16:27:33
18 question. We're trying to resolve their 16:27:35
19 questions, those words. And in keeping with 16:27:37
20 their pattern of going home, we just ask them 16:27:44
21 to come back in the morning. 16:27:46
22 MS. BREMNER: Yeah. That we're 16:27:49
23 trying to answer their question and if they 16:27:50
24 want to go home, that's fine. 16:27:53
25 THE COURT: We're trying to resolve 16:27:56

1 their issue or resolve -- resolve their 16:27:57
2 question. I'm playing semantics here because 16:27:58
3 I don't -- whatever words you want me to use. 16:28:01
4 MR. SANKAR: I think that's fine, 16:28:07
5 Judge. And I think that we can -- and I would 16:28:08
6 almost propose, Judge, that we take a quick 16:28:10
7 recess after explaining that to the jurors and 16:28:13
8 then come back and address this issue because 16:28:15
9 we might be able to go downstairs and provide 16:28:16
10 something to the court to address this issue. 16:28:19
11 THE COURT: Well, and that's what I 16:28:20
12 am going to suggest and ask the parties to, I 16:28:22
13 mean, obviously get me something tonight so I 16:28:24
14 can look at it, and -- yeah, look at it and 16:28:28
15 read and you got to make a decision. 16:28:33
16 But first things first. Does anybody 16:28:36
17 have a problem with what I just suggested by 16:28:38
18 way of asking Zach to go upstairs and ask them 16:28:41
19 to come back in the morning? 16:28:46
20 MS. CASTLE: Not by the state, Your 16:28:46
21 Honor. 16:28:51
22 THE COURT: Ms. Bremner, Ms. Ellison? 16:28:51
23 MS. BREMNER: No, Judge. Oh, I'm 16:28:53
24 sorry. You're just -- we're not bringing them 16:28:56
25 down, are we? 16:28:59

1 THE COURT: No. 16:29:00
2 MS. BREMNER: No. Yeah. I don't 16:29:00
3 have an objection. 16:29:01
4 THE COURT: Tell them we're trying to 16:29:06
5 resolve the issue and be safe and we'll see 16:29:07
6 them in the morning. 16:29:11
7 THE CLERK: 9:00? 16:29:11
8 THE COURT: That is -- I mean, 9:00, 16:29:19
9 but if they want to pick a different time, if 16:29:21
10 that will make them happy, let them pick a 16:29:21
11 time. 16:29:23
12 THE CLERK: Okay. 16:29:23
13 THE COURT: That being said, Counsel. 16:29:23
14 MS. BREMNER: I just got notice that 16:29:28
15 this happened in another case with Judge Round 16:29:28
16 and it was just reversed with Keith Hudson. 16:29:33
17 They didn't define I think physical injury or 16:29:33
18 weapon, something along those lines, and it 16:29:36
19 was just reversed as instructional error. 16:29:38
20 THE COURT: It's the third rail. 16:29:42
21 (Discussion held off the record.) 16:29:58
22 THE COURT: Obviously, a starting 16:29:58
23 point because I need to -- I think that 16:29:59
24 might -- we can start there and maybe it's 16:30:02
25 distinguished because that's the only count 16:30:04

1 and it starts -- 16:30:06

2 MS. BREMNER: I was trying to give a 16:30:09

3 starting point. 16:30:11

4 THE COURT: It starts the discussion. 16:30:11

5 I need something -- what's the game plan? 16:30:15

6 MR. SANKAR: Judge, we think we 16:30:17

7 can -- we obviously have access to computers, 16:30:19

8 I think we can obviously speak tonight. We'd 16:30:22

9 like to speak tonight so we get some 16:30:25

10 resolution and know where we're going because 16:30:26

11 if we need to have a corrective instruction 16:30:29

12 for the instruction that was previously there, 16:30:30

13 we'd like to have that discussion sooner 16:30:33

14 rather than later. 16:30:35

15 Obviously, we understand what the 16:30:36

16 court is directing us to do, which is, is 16:30:38

17 there a corrective measure based on where we 16:30:40

18 are now that can sustain appellate review 16:30:43

19 should they come to a verdict here. That's 16:30:46

20 the question I think we're looking to answer. 16:30:48

21 It's not whether Mrs. Bremner was arguing 16:30:50

22 self-defense or talking about instructions. 16:30:53

23 So -- 16:30:54

24 THE COURT: So let me say this so I 16:30:56

25 can not surprise anyone. I don't mind having 16:30:58

1 a discussion this evening, but in all fairness 16:31:00
2 to both sides, I don't know that I'm going to 16:31:10
3 make the decision tonight because I want to 16:31:12
4 look at whatever both sides are going to 16:31:15
5 present. And I'm going to throw myself under 16:31:18
6 the bus for a second. I don't know that I'm 16:31:24
7 smart enough to make that decision tonight. 16:31:26
8 So. Or brave enough, to be honest with you. 16:31:29
9 MS. CASTLE: Understood. 16:31:33
10 MR. SANKAR: Judge, would you like us 16:31:35
11 to meet earlier in the morning or should we do 16:31:36
12 what we did over the weekend and just converse 16:31:39
13 by e-mail? Whatever is -- 16:31:42
14 THE COURT: A little bit of both. I 16:31:42
15 think we should do both. 16:31:47
16 MR. SANKAR: Okay. Fair enough. 16:31:47
17 THE COURT: Let's converse via 16:31:49
18 e-mails. I have a hearing in the morning at 16:31:53
19 8:30. I don't know if it's a plea or a 16:31:55
20 sentencing, but I need to be here in the 16:31:59
21 morning at 8:30. What time are they coming 16:32:01
22 back? 16:32:07
23 THE CLERK: 9. 16:32:09
24 THE COURT: Is it a plea or a 16:32:11
25 sentencing? 16:32:13

1 THE CLERK: A sentencing. Then we 16:32:13
2 have a pretrial at 9:00 which could be 16:32:14
3 lengthy. 16:32:18
4 THE COURT: And I'm saying this 16:32:24
5 laughing at myself. Did 8:00 present a 16:32:25
6 problem for any of you all, because it did for 16:32:29
7 me the other day. 16:32:31
8 MS. CASTLE: It does not for us, Your 16:32:32
9 Honor. We'll be here whenever you want us. 16:32:34
10 THE COURT: How about defense? 16:32:37
11 MS. BREMNER: Sure. 16:32:38
12 THE COURT: So I'll split the baby 16:32:41
13 and say 8:15. All right. Let's say 8:00. 16:32:45
14 I'm going to be here at 8:00. 16:32:49
15 Here's my thinking. If we converse 16:32:51
16 tonight via e-mail, that will give us some 16:32:53
17 chance to exchange what we need to exchange, 16:32:56
18 give me some time to read what both sides 16:32:58
19 present. We'll meet here at 8:00 in the 16:33:01
20 morning, talk about it informally, and I guess 16:33:04
21 eventually go on the record, and we'll decide. 16:33:09
22 Anybody got a better mousetrap? 16:33:18
23 MS. CASTLE: No, Your Honor. Thank 16:33:20
24 you. 16:33:23
25 MR. SANKAR: Thank you, Judge. 16:33:23

1 MS. BREMNER: Mousetrap. I don't 16:33:25
2 know that I've said that. 16:33:25
3 THE COURT: No, you've said it. 16:33:25
4 MS. BREMNER: Reggie also objects, by 16:33:30
5 the way. 16:33:30
6 THE COURT: Understood. All right. 16:33:32
7 MR. SANKAR: Thank you, Judge. 16:33:33
8 (Court was adjourned.) 16:33:37
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1 **REPORTER'S CERTIFICATE**

2

3 I, Jessica Sanford, Certified Court

4 Reporter, certify that I am the official court

5 reporter for Division 18 of the Jackson County

6 Circuit Court; that on 6/1/19, I was present and

7 reported all of the proceedings in State of

8 Missouri, Plaintiff, vs. Reginald Jones, Jr.,

9 Defendant, Case No. 1716-CR05241-01. I further

10 certify that the foregoing 51 pages contain a true

11 and accurate reproduction of the proceedings

12 transcribed.

13

14

15 /S/ Jessica Sanford

16 Jessica Sanford, CCR 1379

17

18 Transcript completed: 6/19/19

19

20

21

22

23

24

25

JURY QUESTION FORM

CASE NAME: *State of Missouri v. Reginald Jones Jr.*

CASE NO. 1716-CR05241-01

DATE: 6/12 TIME: 11 AM

QUESTION:

All 12
If the jury doesn't unanimously find the defendant guilty or not guilty, do we move onto the next instruction? If we don't all 12 agree on First Degree Murder, do we move onto the next instruction or do we all have to agree on one instruction before moving to the next instruction?

BY:

Mark Murphy

FOREPERSON

COURT'S RESPONSE:

THE JURY SHALL BE GUIDED BY THE COURT'S INSTRUCTIONS

11:20 AM
TIME

Kevin D. Harrell
Kevin D. Harrell, JUDGE

Court's Exhibit #

JURY QUESTION FORM

CASE NAME: *State of Missouri v. Reginald Jones Jr.*

CASE NO. 1716-CR05241-01

DATE: _____

TIME: _____

QUESTION:

*If the Jury Cannot Unanimously Agree
On a proposition asked under instruction 19
how do we proceed?*

BY: _____

FOREPERSON

COURT'S RESPONSE:

*THE JURY SHALL BE GUIDED BY THE COURT'S
INSTRUCTIONS*

TIME

11:23 AM

Keyin D. Harrell, JUDGE

Court's Exhibit #

JURY QUESTION FORM

CASE NAME: *State of Missouri v. Reginald Jones Jr.*

CASE NO. 1716-CR05241-01

DATE: 6-12-19

TIME: 11:10am

QUESTION:

- IF WE ALL CANNOT AGREE ON INSTRUCTION #27, CAN WE
MOVE ON TO THE NEXT PROPOSITION.
- IF WE CANNOT AGREE ON MURDER COUNT I FROM DARRYL
DO WE MOVE ON TO THE PROPOSITION.

BY:

Darryl

FOREPERSON

COURT'S RESPONSE:

THE JURY SHALL BE GUIDED BY THE COURT'S
INSTRUCTIONS

TIME

11:28 AM

Kevin D. Harrell
Kevin D. Harrell, JUDGE

Court's Exhibit #

JURY QUESTION FORM

CASE NAME: *State of Missouri v. Reginald Jones Jr.*

CASE NO. 1716-CR05241-01

DATE: 6/12

TIME: 1:40pm

QUESTION:

*Referring to Instruction 19, last sentence,
does the word "you" refer to the individual
juror or to the jury as a whole?*

BY: *Mark Byrd*

FOREPERSON

COURT'S RESPONSE:

*THE JURY SHALL BE GUIDED BY THE COURT'S
INSTRUCTIONS.*

1:59 PM
TIME

Kevin D. Harrell
Kevin D. Harrell, JUDGE

Court's Exhibit #

JURY QUESTION FORM

CASE NAME: *State of Missouri v. Reginald Jones Jr.*

CASE NO. 1716-CR05241-01

DATE: 6-12-19 TIME: _____

QUESTION:

*THERE ARE JURORS THAT DO NOT WANT TO LOOK AT ALL
OF THE POSSIBLE CHARGES OR FOLLOW THE INSTRUCTIONS.
WE ARE AT A STAND STILL. PLEASE ADVISE.*

BY: _____

Frank Nigley

FOREPERSON

COURT'S RESPONSE:

TIME _____

Kevin D. Harrell, JUDGE

Court's Exhibit # _____

JURY QUESTION FORM

CASE NAME: *State of Missouri v. Reginald Jones Jr.*

CASE NO. 1716-CR05241-01

DATE: 6/12

TIME: 3:59

QUESTION:

Does the definition of "sudden passion" in instruction 21 have the same meaning as in "sudden passion" in instruction 7?

Please define the definition of "sudden passion" in regards to Instruction 21?

BY: Mark Rhy

FOREPERSON

COURT'S RESPONSE:

SEE ATTACHED INSTRUCTION # 21A

TIME

9:30 AM 6-13-19

Kevin D. Harrell
Kevin D. Harrell, JUDGE

Court's Exhibit #

1 **IN THE CIRCUIT COURT OF MISSOURI**
2 **JACKSON COUNTY, SIXTEENTH JUDICIAL CIRCUIT**
3 **Honorable Kevin D. Harrell, Judge**

4 STATE OF MISSOURI,

5 Plaintiff,

6 vs.

No. 1716-CR05241-01

7 REGINALD E. JONES, JR.,

8 Defendant.

9 **TRANSCRIPT OF PROCEEDINGS**

10 On Thursday, June 13, 2019, the above cause came on for
11 jury trial before the Honorable Kevin D. Harrell, Judge,
12 Division 18 of the Jackson County Circuit Court at Kansas
13 City, Missouri.

14 **APPEARANCES**

15 The State of Missouri was represented by Sarah Ann
16 Castle, Lauren Alyssa Dollar and Dion F. Sankar, Jackson
17 County Prosecuting Attorney's Office, 415 E. 12th Street,
18 11th Floor, Kansas City, Missouri, 64106.

19 The defendant was present in person and represented by
20 his attorney, Ms. Paige Noel Bremner, Missouri State
21 Public Defender System, Oak Tower, 20th Floor, 324 E.
22 11th Street, Kansas City, Missouri, 64106.

23 Charla M. Milne-Cathcart, C.C.R. No. 560
24 Registered Professional Reporter
25 Sixteenth Judicial Circuit, Kansas City, Missouri

1 THURSDAY, JUNE 13, 2019

2 (The following proceedings were held out
3 of the presence of the jury:)

4 THE COURT: Everyone is here. And I
5 will make my official apology to everyone on the
6 record. Again, I set this for 8 o'clock and it's
7 not 8 o'clock. I won't say on the record what
8 time it is, but it's not 8 o'clock.

9 All right. This conversation is taking place
10 outside of our deliberating jury. On last evening
11 we concluded to do some research as to our issue
12 of correcting -- whether or not we could correct
13 jury instructions based on a question presented by
14 the jury as to the definition of sudden passion as
15 it pertained to Count III of our instruction
16 packet.

17 I gave the State as well as the defense an
18 opportunity to do some research on that exchange,
19 both sides, and to let the Court read it. I
20 believe that they have done that. I know they've
21 done that, and we are back this morning.

22 State like to take a position?

23 MS. CASTLE: Your Honor, as the State
24 mentioned in its memorandum on an omitted
25 definition, the law does permit the Court to

1 provide a definition. Upon review of the question
2 posed by the jury, it was clear and became clear
3 to the Court and the parties that the entire
4 definition section of murder in the second degree
5 as it pertains to Instruction No. 21 had
6 inadvertently been omitted.

7 The State did research last night and again
8 provided the Court with two specific cases as well
9 as a memorandum on what the Court has discretion
10 to do. It is obviously within the Court's
11 discretion to make a determination. I think
12 yesterday during the course of the proceedings the
13 defense on a number of occasions mentioned a
14 mistrial, and upon leaving last night had objected
15 to the corrective instruction. And it was my
16 recollection of the evening that both defense
17 counsel and defendant had been requesting a
18 mistrial based on the omission of the definition.

19 After receiving the State's memorandum, there
20 was an e-mail provided by defense counsel in which
21 she stated that she agreed with the State's
22 memorandum but did not agree with the request for
23 a mistrial on all counts.

24 And I would like to clarify for the record
25 the State was not requesting a mistrial but

1 stating to the Court that given the appellate
2 issues and the issues that have been created by
3 the omission, it seemed as if that might be the
4 most corrective remedy because the jury had
5 indicated on a number of occasions it was
6 struggling to follow the instructions and then
7 that was ultimately how we had come to that
8 conclusion.

9 So I guess for us, we believe that it's the
10 Court's discretion, but there are some significant
11 appellate issues with regard -- potential
12 appellate issues with regard to the instructional
13 omission.

14 THE COURT: Ms. Bremner.

15 MS. BREMNER: Yes. Thank you, Judge.
16 And I'll just make it clear and Mr. Jones can also
17 speak on his own behalf, but we -- in regards --
18 and I want to be specific because I did ask for a
19 mistrial in this case earlier. But regarding --

20 THE COURT: When you say "earlier,"
21 earlier meaning yesterday evening or earlier in
22 the trial -- earlier in the trial?

23 MS. BREMNER: Last week in the trial. I
24 never withdrew that mistrial request; I want that
25 to be clear on the record that it is preserved in

1 case we get to an appeal situation.

2 THE COURT: Understood.

3 MS. BREMNER: Regarding this
4 instruction, I did say the words many times, but I
5 was asked specifically if I requested a mistrial
6 while we were on the record, and I said I had not
7 requested a mistrial. At the end when Judge -- I
8 think we were off the record at this point --
9 said, I don't know any other way out of this
10 mousetrap, I said mistrial? And that -- but
11 Reggie would object to that request, so I never
12 made a formal request for mistrial on this issue.

13 Additionally, I did not know the case law.
14 As the Court indicated, none of us were sure at
15 that point. Went back to my office, found a case,
16 not the same case as they found but a case
17 similarly on point that said the correct thing for
18 the Court to do is to bring the jury down, provide
19 them the corrected instruction and send them back
20 to deliberate.

21 The only thing I saw in the cases that the
22 State provided and the case that I found said that
23 a mistrial is appropriate if the defendant can
24 show prejudice and objected. And in the cases,
25 some of them the defendant didn't object, some of

1 them the defendant didn't show prejudice.

2 I am not objecting to what the Court clearly
3 is supposed to do per the case law, which is
4 provide the required MAI. That is what is
5 required. Additionally, if the State is still
6 requesting a mistrial, even though we're
7 requesting the corrected instruction, I am
8 objecting to the mistrial request by the State on
9 this specific issue. And the State requesting a
10 mistrial is a peculiar situation in that the
11 State -- and I did some research after the State's
12 request for a mistrial. The State --

13 THE COURT: I don't know, but don't lose
14 your thought.

15 Is the State requesting a mistrial?

16 MS. CASTLE: No. The State provided the
17 Court with possible remedies. We did not request
18 a mistrial.

19 THE COURT: I wasn't under the
20 impression that they were requesting one.

21 MS. BREMNER: Well, then if we're all in
22 agreement to the instruction, the corrected
23 instruction, then --

24 THE COURT: Let me make clear -- let me
25 be clear of something -- no, I am not saying that

1 right. Let me make sure that I am clear of
2 something. When we left here yesterday I was
3 under the impression that defense was asking for a
4 mistrial, but for wanting to make sure they were
5 on solid ground, wanted to check some things. But
6 I was under the impression that just short of a
7 few things you were asking for a mistrial. So I
8 guess unequivocally is the defense asking for a
9 mistrial or not?

10 MS. BREMNER: No, Judge, we are not.
11 And earlier -- I do remember I did make a mistrial
12 request earlier at the bench when we had -- but
13 before they came back with the question. And
14 that's because I was under the impression they
15 were stuck and we were just sending them up to be
16 stuck again. And, Judge, you were correct, I was
17 wrong. They came down with a new question.
18 Clearly they're not stuck. So that was the one, I
19 remember making that at the bench, but it was
20 specific prior to, and I was proven wrong, Judge.

21 THE COURT: So they have been
22 deliberating since Monday. And so today is
23 Thursday. Is it -- so am I correct in my
24 thinking, Ms. Bremner, that you are making the
25 strategic decision not to ask for a mistrial even

1 in understanding that they have been deliberating
2 since Monday? I mean, I am saying I was under the
3 impression --

4 MS. BREMNER: Sorry. I am not sure. I
5 guess I am not sure what you're asking, Judge.

6 THE COURT: What I am saying is, if you
7 were inclined to ask for a mistrial, you were
8 inclined to ask for a mistrial, I would be
9 inclined to entertain that seriously at this
10 point. So if you are not asking for a mistrial,
11 because I was under the impression when we left
12 yesterday that you were going to ask for that.
13 And that's fine, I'm not pushing you in that
14 direction, but I am saying you're not asking for
15 one and so you're making the conscious decision
16 not to ask for one at this point is what I'm
17 asking.

18 MS. BREMNER: Right, Judge. I believe
19 the instruction is what the law dictates as the
20 corrective measure unless I can show prejudice,
21 which I reviewed my own statements in closing and
22 talked with co-counsel about what I said, and I
23 don't believe I have a good faith argument that
24 there was prejudice.

25 THE COURT: And I'm glad you said that

1 because -- and you just addressed it, because
2 yesterday, and, again, this was before you had a
3 chance to check, you did mention that you believe
4 you were prejudiced because you didn't get a
5 chance to speak to that. And, again, you said
6 that prior to the recess we took last night.
7 Okay.

8 That being said, and, again, I will just say
9 if you were asking for a mistrial I would be
10 inclined to entertain that seriously, but it's my
11 understanding that you are not requesting one at
12 this time.

13 MS. BREMNER: Just one second.

14 (Counsel confer momentarily.)

15 MS. BREMNER: We're not asking, Judge,
16 for a mistrial on this issue.

17 THE COURT: Understood. And you are not
18 waiving any other previous request.

19 MS. CASTLE: Judge, just for purposes of
20 the record, would the Court mind reading the
21 e-mail from defense counsel into the record that
22 was received last night at 9:59 p.m. by both
23 parties as well as the Court? I can read it if
24 you would like.

25 THE COURT: You may.

1 MS. CASTLE: "I concur with the State's
2 memo but not with their request for a mistrial on
3 all counts. It is clear that the Court has to
4 read and provide the correct instruction to the
5 jury. That would be the defendant's request.
6 After court I reviewed the MAI, and based on what
7 I remember from my closing, I did address the
8 specific instruction, and I do not believe I can
9 show any prejudice to the defendant. Since I
10 cannot show prejudice and I am not objecting to
11 the instruction being corrected, a mistrial on
12 this issue would be wrong. Thank you."

13 And that was received on 6/12/2019 at 9:59
14 p.m. by the Court and all the parties.

15 THE COURT: All right. Since you read
16 that into the record why don't you print it off so
17 we can make it a part of the record.

18 So that being said, I think the vein that we
19 are in is we should prepare the corrected
20 instruction with the definition included. It
21 would be my intent, unless again the collective
22 heads tell me we should do something differently,
23 is to actually bring them down, read that
24 instruction to them, just that instruction, send
25 them back upstairs to deliberate; that instruction

1 including obviously that the definitions, and,
2 again, just send them back up and then they will
3 continue their deliberations.

4 Any objection to that?

5 MS. CASTLE: No, your Honor.

6 MS. BREMNER: No. That seems to be what
7 the case law suggests.

8 THE COURT: Now, the basis for which I
9 would do that comes from the research provided to
10 the Court, and that is *State v. Gardner*,
11 G-A-R-D-N-E-R. That's found at 8 S.W.3d 66, as
12 well as *State v. Hannett*, H-A-N-N-E-T-T, and
13 that's 713 S.W.2d. 267. And that's the authority
14 of which I will base my decision and proceed with
15 submitting the corrected instruction in this
16 matter.

17 MS. CASTLE: Your Honor, instruction I
18 believe is No. 33 also references that they are to
19 refer to each instruction separately. And since
20 they were trying to apply the definition of
21 Instruction No. 7 to Instruction No. 21, I know we
22 are giving them the corrective instruction, but
23 would the Court entertain reading Instruction No.
24 33, which says they have to consider each
25 instruction separately, since there was some

1 confusion about applying definitions from one
2 count to another?

3 MS. BREMNER: Judge, I would object to
4 that mostly because they asked the question and we
5 are to answer that question that they asked, and I
6 believe that's what we're doing with this. I
7 don't think we should go beyond that.

8 MS. CASTLE: The question was
9 specifically whether or not the definition of
10 sudden passion as in Instruction 7 could be
11 applied to Instruction 21. That's taking
12 something from one instruction and applying it to
13 another. We're correcting it by giving them the
14 definition, but to tell them that they are not to
15 go and consider a definition in another
16 instruction to me --

17 THE COURT: Well, I understand the
18 State's argument and position, but I think we need
19 to answer the question by providing the definition
20 and not go beyond. I mean, because we're sending
21 them back up there to deliberate, I think they're
22 purposely going through the instruction and
23 hopefully they will land on each and every
24 instruction that they need to land on.

25 Again, so my intention is to bring them down,

1 tell them that -- read the question that they
2 posed, then read the corrected instruction and
3 then send them back. All right. Once I have the
4 corrected instruction -- now that I have the
5 corrected instruction, I am going to bring them
6 down. I am going to take up some other matters
7 and then we'll call you when we're ready.

8 MS. BREMNER: We probably need to look
9 at it.

10 MS. CASTLE: And, your Honor, I have one
11 other thing I need to take up.

12 THE COURT: You may.

13 MS. CASTLE: Last night the Court
14 concluded with the jury and released them and
15 released all of the parties. Most of the State's
16 attorneys used the stairs. I used the elevators.
17 And there were three jurors. One of the jurors
18 approached me and stated in the hallway, I have a
19 question for you, to which I said, I am not
20 allowed to talk to you. And one of the jurors
21 said, You can't talk to her.

22 The juror continued with, It's not about the
23 trial. And I said, I am not allowed to answer
24 anything. And she proceeded to ask me how I get
25 out of the building in the event of a fire drill.

1 And my response was, I don't. But I got in the
2 elevator and got down on 7M and left the elevator
3 and said good night.

4 Nothing else was discussed, but it was in
5 front of a couple of jurors in the open hallway on
6 the 8th floor. And I want to make sure that the
7 Court is aware that I was asked to answer a
8 question.

9 THE COURT: Ms. Bremner.

10 MS. BREMNER: I don't have a response.

11 THE COURT: Do we need to follow up by
12 way of bringing any one of those three individuals
13 in and ask any questions?

14 MS. BREMNER: I don't think it's
15 necessary.

16 THE COURT: I am just making sure. As
17 an officer of the Court, Ms. Castle, I will take
18 your recitation as that of the truth and it won't
19 be an issue.

20 MS. CASTLE: Thank you, your Honor.

21 THE COURT: All right. We will take it
22 up as soon as they buzz, and I can take care of a
23 couple of other matters, all right?

24 Counsel, do me a favor, put your heads
25 together, amongst yourselves if you need to, and

1 then if there is something that comes up we'll
2 deal with it.

3 MS. BREMNER: I think it's all the same
4 typos we had last time.

5 (A recess was taken.)

6 THE COURT: Counsel, question. And
7 actually I think you have answered my question,
8 but just to make sure that I am looking at this
9 correctly. The corrected instruction that I've
10 been given, are we numbering that 21-A?

11 MS. DOLLAR: Yes, your Honor.

12 THE COURT: And, again, it is my
13 intention to read their question, and in response
14 to their question read the corrective instruction.

15 MS. DOLLAR: Your Honor, I think we
16 should include language saying that 21-A will be
17 replacing Instruction 21 so that they don't think
18 that they are supposed to --

19 THE COURT: We will be replacing 21. So
20 should I have Mr. Smith pull Instruction 21 out of
21 the original packet?

22 MS. BREMNER: I think so.

23 THE COURT: As well as they have
24 courtesy copies. So what we will do is we'll make
25 a copy of 21-A, tell them to discard it. We will

1 make sure they discard all of the original 21's.

2 (The following proceedings were held in
3 the courtroom in the presence of the jury:)

4 THE COURT: Good morning, everyone. I'm
5 glad to see you made it back safely this morning.
6 I hope you had a good night's rest.

7 Ladies and gentlemen, you submitted a
8 question last night before we took a break, and it
9 is the Court's intention at this time to address
10 that question. All right? Your question was:
11 "Does the definition of sudden passion in
12 Instruction 21 have the same meaning as in sudden
13 passion in Instruction 7? Please define the
14 definition of sudden passion in regards to
15 Instruction 21."

16 This is Instruction 21-A. Instruction 21-A.
17 "As to Count III, if you do not find the Defendant
18 guilty of murder in the first degree you must
19 consider whether he is guilty of murder in the
20 second degree under this instruction. As to Count
21 III, if you find and believe from the evidence
22 beyond a reasonable doubt; first, that on or about
23 December 7, 2017, in the state of Missouri the
24 Defendant caused the death of Darryl Singleton by
25 shooting him; and second, that it was the

1 Defendant's purpose to cause serious physical
2 injury to or cause the death of Darryl Singleton;
3 and third, that Defendant did not do so under the
4 influence of sudden passion arising from adequate
5 cause; and fourth, that Defendant did not act in
6 lawful self-defense as submitted in Instruction
7 No. 27; and fifth, that Defendant did not act in
8 lawful defense of another person as submitted in
9 Instruction No. 28, then you will find the
10 Defendant guilty under Count III of murder in the
11 second degree. However, unless you find and
12 believe from the evidence beyond a reasonable
13 doubt each and all of these propositions, you must
14 find the Defendant not guilty of murder in the
15 second degree under this instruction. As used in
16 this instruction, the term sudden passion means
17 passion directly caused by and arising out of
18 provocation by Darryl Singleton or another acting
19 with Darryl Singleton which passion arose at the
20 time of the offense and was not solely the result
21 of former provocation. The term adequate cause
22 means cause that would reasonably produce a degree
23 of passion in a person of ordinary temperament
24 sufficient to substantially impair an ordinary
25 person's capacity for self-control. As used in

1 this instruction the term serious physical injury
2 means physical injury that creates a substantial
3 risk of death or that causes serious disfigurement
4 or protracted loss or impairment of the function
5 of any part of the body."

6 Ladies and gentlemen, this is Instruction
7 21-A. In your original packet as well as your
8 copies there is instruction 21. I am going to ask
9 Mr. Smith to take Instruction 21 out of the
10 original packet as well as your copies and replace
11 it with 21-A, all right? So 21 will be taken out
12 of the original as well as the copies and replaced
13 with 21-A. And as a part of answering your
14 question, as I do, I am going to put in the
15 Court's response "See attached 21-A."

16 All right, ladies and gentlemen, you may
17 return upstairs for your deliberations. Thank you
18 very much.

19 (The jury left to continue deliberations
20 at 9:31 a.m.)

21 (A recess was taken.)

22 THE COURT: This is in the matter of
23 State of Missouri v. Reginald Jones, Jr.
24 Conversations are taking place outside of our
25 deliberating jury. We have two questions. First

1 question: "Can the jury change the foreperson?"

2 MS. CASTLE: I don't think that we can

3 comment on that.

4 MS. BREMNER: There is an instruction,

5 so I think they have to follow the instructions of

6 the Court.

7 THE COURT: What's my response?

8 MR. SANKAR: I think -- honestly, Judge,

9 I think that that goes to the internal

10 deliberations of the jury. With respect to just

11 answering the questions, I think it's up to them

12 to -- I think as you instruct them, to maneuver

13 through their deliberations as they see fit. I

14 don't know how to capture that in a short

15 sentence, but --

16 THE COURT: Ms. Castle?

17 MS. CASTLE: No, you're fine, Judge.

18 You're fine.

19 THE COURT: So someone tell me what my

20 response is.

21 MS. BREMNER: I think since there is an

22 instruction on foreperson that the comments should

23 be what the standard answer.

24 THE COURT: The jury shall be guided --

25 go ahead.

1 MR. SANKAR: Ms. Dollar just made a
2 suggestion.

3 MS. DOLLAR: The jury should be guided
4 as they see fit, or proceed as they see fit.

5 MS. BREMNER: I think it needs to be,
6 because there is an instruction on it, they need
7 to follow the instruction.

8 MS. DOLLAR: I'm just not sure if the
9 instruction encompasses them wanting to change the
10 foreperson. It just says selecting a foreperson,
11 so that would be my only suggestion.

12 THE COURT: Okay. So --

13 MS. CASTLE: Were the questions
14 submitted at the same time?

15 THE COURT: Yes.

16 MS. CASTLE: And this is just procedure.
17 The second question is maybe easier to answer.

18 THE COURT: That's fine. So I have --
19 well, let me read the second question and I will
20 tell you all the issues. Second question: "There
21 are jurors that do not want to follow the
22 instructions and some claim that" should be they,
23 but "some claim that the (sic) do not understand
24 the instructions. We are at a standstill and
25 cannot go forward. There is no understanding of

1 the order of deciding the counts. Please advise."

2 Before we deal with that. Mr. Smith, my law
3 clerk/lawyer/bailiff and extraordinary --

4 THE LAW CLERK: Zach of all trades.

5 THE COURT: -- Zach of all trades, has
6 sent me a message saying, "During the swapping of
7 instructions a juror approached me in private
8 about an issue with another juror. She asked what
9 she should do if she and other jurors were having
10 a problem with a particular juror. I said I would
11 bring it to the Court's attention."

12 MS. CASTLE: Based on the State's
13 understanding of the second question, and I would
14 take the question regarding standstill to be maybe
15 the first and the question that was posed to
16 Mr. Smith as well as can we change the foreperson
17 to indicate that they are at a deadlock. And
18 based on their statement that they cannot move
19 forward, that's what I understand them to be
20 saying. And I think that takes sort of into
21 account what has been stated previously.

22 So that's the State's position on how -- what
23 at least we have interpreted the question to be.

24 THE COURT: Ms. Bremner.

25 MS. BREMNER: Oh, so many things. Well,

1 originally when, in response to the second
2 question that was read, what I was thinking was
3 something along the lines of reminding them that
4 they are bound to follow the instructions of the
5 Court that have been provided, and if you have a
6 question about the instructions, to address that
7 to the Court.

8 At the standstill thing, and they said they
9 cannot go forward, I know that yesterday I made
10 this request, and I would make the same request
11 again, to find out if they still have a decision
12 on any count or counts, and to ask them -- I don't
13 know the correct language to return verdicts on
14 any count or counts that they can return verdicts
15 on. But before that, asking if -- I mean, we
16 asked them yesterday when they said they were at a
17 standstill, and they said they could and they did
18 and they came back with another question.

19 I thought yesterday when they said at a
20 standstill they meant it, but then they continued.
21 Now they're saying again they're at a standstill,
22 so --

23 THE COURT: So let me deal with the
24 first question of -- the first sentence rather of
25 this question. "There are jurors that do not want

1 to follow the instructions and some claim they do
2 not understand the instructions."

3 More concerning of that, more so than the
4 understanding is they don't want to follow the
5 instructions because you can get an understanding
6 just talking and reading. But if you don't want
7 to follow them, that's something different.

8 MS. BREMNER: Sure, which is why
9 originally I suggested maybe a reminder. And I
10 know like with yesterday I thought -- basically
11 they have proven me wrong is what I am trying to
12 say.

13 And so I don't know if maybe, you know,
14 bringing them down, and even though they said they
15 were at a standstill, and bringing them down and
16 talking to them, they said they still could go
17 forward. So I am just saying maybe something
18 about that they -- when they were sworn in to
19 follow the instructions, that maybe a reminder
20 from the Court that they need to follow the
21 instructions of the Court as they have been
22 provided, and then a follow-up with that
23 instruction, you know, would more time help? And
24 if they are like, no, then have they reached, you
25 know, a verdict, can they fill out verdict forms

1 for any count or counts.

2 THE COURT: What's the thinking if --
3 let's just say yes, we can fill out verdict forms
4 as to certain counts. No, we can't go any
5 further, we're deadlocked, what's the thinking?

6 MS. BREMNER: I think those are two
7 separate things, Judge.

8 THE COURT: Yeah, I'm just playing it
9 out in my head, what's the thought process? Yes,
10 we can fill out some counts and no, we can't
11 deliberate anymore because we're tired of each
12 other and we're not going to follow the
13 instructions.

14 MS. BREMNER: Then they should return
15 verdict forms for whatever count they can agree
16 on, and then declare a mistrial on whatever count
17 they cannot agree on.

18 THE COURT: What's the State's position?

19 MS. CASTLE: If the Court is inclined to
20 declare a mistrial, it should be of the entire
21 trial. Their question specifically states that
22 they are not following, or not willing to follow
23 instructions as to decisions on the counts. Their
24 questions have been posed intertwining all of the
25 counts, and everything has been completely

1 intertwined. The Court does not have to accept a
2 verdict. If the Court is inclined to declare a
3 mistrial because they're not following
4 instructions, we don't know which instructions
5 they've chosen to follow or not follow. It should
6 be of the entire trial.

7 THE COURT: Okay. Go ahead.

8 MS. BREMNER: I think it was very clear
9 yesterday and -- I am losing track of days. I
10 think it was very clear Tuesday in their last
11 question, and theirs yesterday, one, from all of
12 their questions and, two, from what they said on
13 the record in front of everyone, that they have
14 reached verdicts as to -- verdict. I don't know.
15 I don't want to -- but they have received an
16 agreement. And if they've reached an agreement we
17 can't just throw that aside. If they have reached
18 an agreement on to any of the counts, we should --
19 I mean, I think there is a double jeopardy claim
20 here, Judge.

21 THE COURT: Well, hypothetically they
22 can agree that there was a crime committed by way
23 of -- a shooting was committed by, with and
24 through the use of a gun, but they don't agree
25 whether or not it was first degree, second degree,

1 voluntary or involuntary. So we all agree it was
2 used by a gun. So they agree that, yes, this was
3 an ACA. But you don't get to the ACA unless you
4 find the prerequisite.

5 MS. BREMNER: But that's a completely
6 different situation. If they say that they have
7 agreed on a count and that's the situation we're
8 in, then that would be an inconsistent verdict and
9 we couldn't be able to accept it.

10 THE COURT: Right, but I'm saying I
11 wouldn't know that -- you're saying call them
12 down, figure out which ones --

13 MS. BREMNER: No, I'm not saying we
14 should find out which ones. I'm saying you should
15 call them down and ask them if they've reached --
16 if they can agree as to any count or counts; if
17 they can, to return verdict forms for those counts
18 or count. And then just as the Court would do in
19 any trial, review them to make sure they're
20 accurate. If they're not, then obviously we
21 cannot accept them; they're not in proper form.
22 But if they're in proper form, I leave the Court,
23 you need to accept them. Otherwise we have a
24 double jeopardy claim.

25 THE COURT: I got you.

1 MS. CASTLE: Judge, if I may, there is
2 case law on point that says the Court cannot have
3 to accept a verdict and can order a mistrial on
4 the entirety of the situation.

5 THE COURT: I understand, it's my
6 discretion. I get it. So at this point I need to
7 bring them down and ask them -- I am going to deal
8 more so with what I am calling the second one
9 about following the instructions. And I am not
10 even dealing with the change of the foreperson.

11 So I am calling them down to ask them, A,
12 still if they have at least the count that they
13 have agreed upon and if further deliberations will
14 help, and if they are still willing to follow the
15 Court's instructions. If that doesn't incorporate
16 or contemplate understanding is a concern.

17 MS. BREMNER: There is also an
18 instruction that tells them to --

19 THE COURT: But I can't point to it.

20 MS. BREMNER: Well, maybe the addition
21 of following the instructions of the Court that
22 has been provided, I mean -- maybe that's the
23 hammer, I don't know.

24 THE COURT: They don't understand the
25 order of which they must decide. So, I mean, if I

1 bring them down, I'm asking them, Do you still
2 have a count that you can agree upon; will further
3 deliberations help; and are you still willing to
4 follow the Court's instructions? Those are the
5 three questions that I said.

6 MS. CASTLE: Thank you.

7 (The following proceedings were held in
8 the presence of the jury at 10:31 a.m.)

9 THE COURT: I want to start off by
10 saying again, as I said yesterday, we thank you.
11 We know you have put in a lot of work. I think I
12 should tell you that none of these issues are
13 unique to this group. All right? So I need to
14 say that to you. This is not unique to this
15 group. So all right, Mr. Foreman.

16 JURY FOREMAN: Yes, your Honor.

17 THE COURT: Again, without telling me
18 any specifics, as of right now, again, without any
19 specifics, does the jury still have an agreement
20 at least to one of the counts?

21 JURY FOREMAN: Yes, your Honor.

22 THE COURT: Do you believe at this point
23 that further deliberations will be helpful to the
24 jury?

25 JURY FOREMAN: No, your Honor.

1 THE COURT: Do you believe that you as a
2 collective are willing to follow the Court's
3 instructions?
4 JURY FOREMAN: No, your Honor.
5 THE COURT: Are you pretty certain about
6 that, sir?
7 JURY FOREMAN: Absolutely, your Honor.
8 THE COURT: Counsel, approach.
9 (Counsel approached the bench and the
10 following proceedings were held:)
11 MS. CASTLE: They made it very clear
12 they are not willing to follow the instructions
13 and that they can't deliberate any further, so, I
14 mean, that seems very clear.
15 THE COURT: Ms. Bremner.
16 MS. BREMNER: I would agree; however,
17 just like they said the day before and they have
18 said again today that they have reached an
19 agreement, and they reached that agreement before
20 they talked about not being able to follow the
21 instructions. They said that yesterday and they
22 said that today. I believe that asking them to
23 return a verdict or verdicts on the counts that
24 they agreed to is proper. This issue of not being
25 able to follow the instructions didn't come up

1 until today.

2 THE COURT: Okay. I am going to send
3 them back upstairs. It's up to me to make a
4 decision. I am going to send them back upstairs,
5 all right? Any comments?

6 MS. BREMNER: No.

7 (The proceedings returned to open
8 court.)

9 THE COURT: All right, ladies and
10 gentlemen. I am going to send you back upstairs.

11 All rise.

12 (The jury left to continue deliberations
13 at 10:37 a.m.)

14 THE COURT: All right. Would the State
15 like to supplement the record any further before I
16 make my decision?

17 MS. CASTLE: Your Honor, I mean, it is
18 the Court's discretion obviously, but based on the
19 answers that were just provided, it seems clear
20 that the jury is not willing to follow the
21 instructions, and we can't make any determination
22 as to which instructions they are or are not
23 willing to follow. They are told to follow the
24 instructions as a whole, and as stated, I believe
25 the foreperson's statement was absolutely they

1 could not follow the instructions.

2 THE COURT: Ms. Bremner.

3 MS. BREMNER: Two parts: One, just when
4 the foreperson was saying absolutely they could
5 not follow the instructions, some of the jurors
6 were shaking their heads in a no. So I am not
7 sure if there is disagreement on that.

8 The other part is, I understand -- I think I
9 understand what you're asking me. And I am still
10 requesting that the Court ask them to return
11 verdicts on the counts they do agree on. I think
12 based on -- I think it's pretty clear from the
13 record and from the last few days of deliberations
14 that the jury didn't have any problems until they
15 came to Count III. And I believe that it is based
16 on the fact that the State also wants a mistrial
17 that it's clear their concern is that they have
18 reached a not guilty verdict on some counts,
19 specifically Count I. And to declare a mistrial
20 on all the counts creates a double jeopardy issue
21 when there is a possibility or belief that the
22 jury is coming back on a not guilty on any of the
23 counts. And if that is correct that they are, and
24 based on the questions that they have submitted
25 throughout the last three days of deliberations,

1 it's easy to infer that.

2 And with the State's request, if the Court is
3 going to grant a mistrial on all four counts, I
4 would ask that jeopardy -- or that I would object.
5 First of all, I would object, and that the
6 mistrial -- I am trying to find the right
7 language, Judge. Sorry. Give me a second.

8 THE COURT: Take your time.

9 MS. BREMNER: That prejudice -- that it
10 be a mistrial with prejudice. I think based on
11 the questions that we have received from the --
12 not the first question the first day. The first
13 question I believe was just for exhibits and then
14 about stand your ground. But the last question on
15 the first day on Tuesday where they asked
16 specifically about whether or not the self-defense
17 evidence on Count I also applied to Count III,
18 it's very clear where they had already moved to
19 and what was happening that they had already found
20 self-defense. And obviously this is me inferring,
21 but I think based on their continuing questions
22 the issue of not being able to follow the
23 instructions is being based now on when they moved
24 on to Count III and the counts involving Mr.
25 Darryl Singleton, not the counts involving

1 Reginald Jones, Sr.

2 And based on the questions that they have
3 asked through the pendency of their deliberations
4 and the -- I think it's clear that they also
5 believe, this is why they also are agreeing with a
6 mistrial from the questions that it can be
7 inferred that this is what they're looking at as
8 an acquittal. And we are objecting to this
9 mistrial as they can return verdicts, they told us
10 they could return verdicts yesterday before they
11 said they couldn't follow the instructions.

12 We would ask that they return verdicts on the
13 counts that they're in agreement on. They've been
14 in agreement on those verdicts for some time.
15 They didn't have any issues until they moved on to
16 the next count. And so I think it's clear, I
17 think it's fair to infer that everyone knows what
18 the jury has reached verdicts on. And so
19 declaring a mistrial on all counts and going
20 forward with a new trial on all counts would be a
21 violation and double jeopardy on whatever counts
22 that they would be acquitting him on, and that
23 this violates my client's rights -- I need to
24 constitutionalize it, Judge -- violates my
25 client's rights under Article I, Section 10, 18(a)

1 and 19 of the Missouri Constitution, and under the
2 U.S. Constitution, Amendments 5, 6 and 14.

3 If the Court is going to declare a mistrial
4 on all counts, again, I would ask that this be
5 done with prejudice. That's it. Thank you.

6 THE COURT: All right. Given the
7 situation, having been told by the jurors that
8 they are not going to follow the Court's
9 instructions and that further deliberations would
10 not be helpful, put in the situation to declare a
11 mistrial. I am doing so at 10:40, 10:42, 43.

12 While we're dealing with this issue as it
13 pertains to the instructions, came up with the
14 instructions, there was still a request for a
15 mistrial early on that defense has not waived.
16 And so that having not been waived, there was a
17 request earlier for a mistrial altogether, taken
18 in part with now the fact that they can't follow
19 the -- can't and won't follow the instructions, I
20 am going to mistrial the while case without
21 prejudice.

22 I am going to set this for trial again.
23 What's the schedule?

24 MS. BREMNER: I don't have my calendar
25 for next year, Judge.

1 MS. CASTLE: The State could be prepared
2 Monday. We checked all the trial calendars, and
3 it didn't appear that there were any conflicts
4 other than we don't know if the Court had
5 anything.

6 MS. BREMNER: I do have my calendar for
7 this year, Judge. But I understand the State
8 saying that they are ready on Monday. I have an
9 expert who I don't know his schedule regarding
10 sentencing. He has been here all week waiting on
11 sentencing, and I don't know his schedule.

12 Additionally, all of the witnesses, the lay
13 witnesses especially have been released from their
14 subpoenas, which means we have nobody served for
15 trial. There is no way we can go forward on
16 Monday.

17 MS. CASTLE: I am confident that we can
18 get the State's witnesses under subpoena and
19 proceed.

20 THE COURT: Ms. Bremner, tell me about
21 your expert. What were you saying about the
22 availability?

23 MS. BREMNER: I don't know his
24 availability. He is here. I can find out, if you
25 give me some time.

1 THE COURT: You can get some time. I
2 guess what I am saying is, the case was just
3 tried. Again, I've said this before: Mr. Jones
4 has been in custody for awhile. I don't want to
5 take a long time trying this case, and so I am
6 trying to figure out why we can't try it next
7 week. And right now it's the State's burden to
8 produce those witnesses, so I am putting the onus
9 on them to get the witnesses.

10 MS. BREMNER: Judge, I understand -- I
11 understand that's their burden. I subpoenaed
12 witnesses as well because I didn't know if the
13 State would call them because they were helpful to
14 our case as well. And so I don't know what their
15 plans are after hearing all the evidence; I don't
16 know what they're going to do. I need to have
17 those witnesses under subpoena as well.

18 THE COURT: And I am not going to
19 prejudice you with respect to that. I am not
20 going to prejudice you with respect to defending
21 your case.

22 MS. BREMNER: Okay.

23 THE COURT: I'm saying you will have who
24 you need to have.

25 MS. BREMNER: Okay. Then if I can

1 further explain my availability. I am -- this
2 case was set originally in, was it April?

3 MS. CASTLE: It was originally set in
4 January. It was continued to April 15, and then
5 set for this week -- or last week.

6 MS. BREMNER: So I just need to make a
7 record. I entered on this case in October after
8 Mr. Bailey left our office. I have literally
9 maybe seen Reginald Jones, Jr. a handful of
10 months, like I have had a very short time with
11 this case. So excuse me that I asked for a
12 continuance from the original trial setting in
13 January. And I'm sorry that I asked for another
14 one in April, but they were all valid continuance
15 requests.

16 Since that last continuance in April, I have
17 worked only on Reginald Jones, Jr.'s case. I have
18 a lot of other clients with pending cases, and
19 they have literally not seen me in months. I am
20 honestly concerned about OCDC and I have concerns
21 this morning I thought about when the State
22 requested a mistrial needing to call them and find
23 out what I am supposed to do in regards to all my
24 other cases that I have literally had to put on
25 the back burner to prepare this case for trial.

1 Because I understood that the Court was not
2 inclined to give me another continuance, so I at
3 the last continuance literally ignored every case
4 I had. I cannot continue to ignore every case I
5 have. I have to see clients, I have to be
6 prepared for their upcoming trials. So
7 potentially being in another two-week trial is
8 putting -- well, it's creating a conflict for me
9 in representation of all of my clients.

10 I have another client set for trial on June
11 24th who I have not seen in, I'm not sure,
12 probably since February, possibly March. I'm not
13 sure that's accurate actually. He has an offer.
14 I haven't even been able to have time to go see
15 him at the jail to convey that offer.

16 I don't want to put off Mr. Jones' trial, he
17 does not want to put off his trial, but me being
18 able to be ready on Monday is going to put me in a
19 difficult situation with all my other clients.

20 Additionally, my biggest concern is making
21 sure we have all our witnesses subpoenaed for
22 trial, and it looks like we will have a day and a
23 half to get that done. And one of the witnesses,
24 well, is homeless is my understanding, maybe both
25 of them; I'm not entirely sure. But one for sure

1 is bouncing around from place to place because
2 they left their home.

3 THE COURT: Who is that?

4 MS. BREMNER: Donald Riley; part of the
5 problem with getting him in here. I also have a
6 sentencing on a murder case that's extremely old
7 on the 21st that I'm not ready for, and a 491 on
8 Friday that I'm not ready for.

9 THE COURT: How quickly does the State
10 believe you can subpoena your witnesses, including
11 Donald Riley and Sean Hill?

12 MS. CASTLE: Judge, we have an address
13 for where Donald Riley was staying earlier, last
14 week. We have contact with Sean Hill's attorney.
15 So it would be my thought that we could do it
16 relatively quickly. We were able to locate Donald
17 Riley. We have phone numbers that we can at least
18 try. Larry Porter is another State's witness. We
19 know where he works, and I am confident that we
20 could get that done.

21 I am not suggesting to the Court that it is
22 going to be necessarily easy, but in fairness to
23 Mr. Jones we were trying to move quickly, and
24 recognizing we released all of our witnesses as
25 well. So we can provide an update to the Court

1 tomorrow, which is Friday, but my goal was to try
2 to get it done today.

3 THE COURT: All right. So, Ms. Bremner,
4 what's your schedule like tomorrow by way of
5 reporting back here? Here is my thoughts.

6 MS. BREMNER: Tomorrow is Friday? I
7 have a bond reduction in the morning and a 491
8 hearing in the afternoon in 13.

9 THE COURT: What time is your bond
10 hearing in the morning?

11 MS. BREMNER: I want to say ten. It's
12 in 15. I'm not ready, so I might have to ask her
13 to move that for me.

14 THE COURT: How long do you anticipate?

15 MS. BREMNER: If it goes, well, I am not
16 prepared, so there won't be anything. So no time
17 at all, Judge.

18 THE COURT: Can we report here at 10:30
19 then?

20 MS. BREMNER: Yeah, that's fine.

21 MS. CASTLE: Yes, your Honor.

22 THE COURT: All right, tomorrow I want
23 to report here. Here's my intention: I want a
24 report from the State as to where you are in
25 finding witnesses. My intention is to set this

1 for Monday.

2 MS. BREMNER: Judge, can I have one
3 second?

4 THE COURT: You may.

5 (Counsel confer momentarily.)

6 MS. BREMNER: We are not committing to
7 Monday for trial. I mean, I am objecting to
8 setting it for Monday, but I am asking because I
9 was thinking about this, and I need time to
10 consider it. And in full -- I can't think of the
11 word -- openness to the Court, I need to consider
12 whether or not I am going to writ this decision.
13 And so I am just asking if that because I would
14 need time. And I am not saying I am this moment
15 because I don't know. It's just the thought that
16 is in my head.

17 THE COURT: I understand.

18 MS. BREMNER: But if you want us back
19 here tomorrow at 10:30 I can be here tomorrow at
20 10:30.

21 THE COURT: I am trying to be as open
22 and transparent and with all the candor I can give
23 you. And that's probably the word you're looking
24 for, candor, as I can give you. My intention is
25 to set it for Monday so we can try it.

1 Preparation is not the issue. The issue is being
2 able to gather everyone back up to try it. And it
3 is not my intention -- I don't know whether or not
4 anyone believes me, but it is not my intention to
5 be insensitive to other cases that everyone has to
6 work on. That is not my intention. It is my
7 intention to get Mr. Jones' case tried, but not my
8 intention to be insensitive to other cases.

9 MS. BREMNER: And, Judge, can I just
10 say, we're not talking about cases for me. We're
11 talking about people who have been sitting in jail
12 for months without seeing their attorney. This
13 isn't a matter of we're all busy; this is not the
14 case at all. We're talking about people sitting
15 in jail beyond Reginald Jones, Jr. and me having a
16 duty and an obligation under the rule to provide
17 them effective representation. That's all.

18 THE COURT: So noted. And I appreciate
19 that. We'll be back here tomorrow at 10:30.

20 (The record concluded.)
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REPORTER'S CERTIFICATE

I, Charla Milne-Cathcart, Certified Court Reporter, certify that I was the acting official court reporter for Division 18 of the Jackson County Circuit Court on June 13, 2019, and I was present and reported all of the proceedings in THE STATE OF MISSOURI, Plaintiff, vs. REGINALD E. JONES, JR., Defendant, Case No. 1716-CR05241-01.

I further certify that the foregoing forty-two pages contain a true and accurate reproduction of the proceedings requested to be transcribed.

/s/ Charla M. Milne-Cathcart

Charla M. Milne-Cathcart C.C.R. No. 560
Acting Official Court Reporter, Division 18
Jackson County Circuit Court at Kansas City

**FILED
DIVISION 18**

13-Jun-2019 09:55

CIRCUIT COURT OF JACKSON COUNTY MO

BY

INSTRUCTION NO. 21A

As to Count III, if you do not find the defendant guilty of Murder in the First Degree, you must consider whether he is guilty of Murder in the Second Degree under this instruction.

As to Count III, if you find and believe from the evidence beyond a reasonable doubt:

First, that on or about December 7, 2017, in the State of Missouri, the defendant caused the death of Darryl Singleton by shooting him, and

Second, that it was the defendant's purpose to cause serious physical injury to or to cause the death of Darryl Singleton, and

Third, that defendant did not do so under the influence of sudden passion arising from adequate cause, and

Fourth, that defendant did not act in lawful self-defense as submitted in Instruction No. 27, and

Fifth, that defendant did not act in lawful defense of another person as submitted in Instruction No. 28,

then you will find the defendant guilty under Count III of Murder in the Second Degree.

1716-CR05241-01
State v. Reginald Jones Jr.

However, unless you find and believe from the evidence beyond a reasonable doubt each and all of these propositions, you must find the defendant not guilty of Murder in the Second Degree under this instruction.

As used in this instruction, the term "sudden passion" means passion directly caused by and arising out of provocation by Darryl Singleton or another acting with Darryl Singleton which passion arose at the time of the offense and was not solely the result of former provocation.

The term "adequate cause" means cause that would reasonably produce a degree of passion in a person of ordinary temperament sufficient to substantially impair an ordinary person's capacity for self-control.

As used in this instruction, the term "serious physical injury" means physical injury that creates a substantial risk of death or that causes serious disfigurement or protracted loss or impairment of the function of any part of the body.

1716-CR05241-01
State v. Reginald Jones Jr.

JURY QUESTION FORM

CASE NAME: *State of Missouri v. Reginald Jones Jr.*

CASE NO. 1716-CR05241-01

DATE: 6/13

TIME: 9:42am

QUESTION:

Can the Jury change the Foreperson?

BY:

[Signature]

FOREPERSON

COURT'S RESPONSE:

TIME

Kevin D. Harrell, JUDGE

Court's Exhibit #

JURY QUESTION FORM

CASE NAME: *State of Missouri v. Reginald Jones Jr.*

CASE NO. 1716-CR05241-01

DATE: 6-13-19

TIME: _____

QUESTION:

THERE ARE JURORS THAT DO NOT WANT TO FOLLOW THE
INSTRUCTIONS AND SOME CLAIM THAT THEY DO NOT
UNDERSTAND THE INSTRUCTIONS. WE ARE AT A STAND STILL
AND CANNOT GO FORWARD. THERE IS NO UNDERSTANDING
OF THE ORDER OF DECIDING THE COUNTS. PLEASE
ADVISE.

BY: _____

Mark [Signature]

FOREPERSON

COURT'S RESPONSE:

TIME _____

Kevin D. Harrell, JUDGE

Court's Exhibit # _____

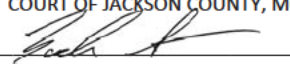




IN THE CIRCUIT COURT OF JACKSON COUNTY, MISSOURI
AT KANSAS CITY, MISSOURI

FILED
DIVISION 18

14-Jun-2019 14:32

CIRCUIT COURT OF JACKSON COUNTY, MO

Judge or Division: KEVIN DUANE HARRELL		Case Number: 1716-CR05241-01		BY: 
		Offense Cycle No.: HU000570		
State of Missouri			Prosecuting Attorney: SARAH ANNE CASTLE	
vs.				
Defendant: REGINALD E. JONES JR.			Defense Attorney: PAIGE NOEL BREMNER	
DOB: 	SSN: 	SEX: M		
(Date File Stamp)				

Jury Trial - Mistrial

On June 4, 2019, the State appears by counsel SARAH ANNE CASTLE and Defendant appears in person and by attorney PAIGE NOEL BREMNER.

The case was called for trial. The venire panel was seated. The Court read unnumbered MAI-CR 400.02 to the venire panel and the venire panel was sworn. The parties conducted voir dire. A record was made on strikes for cause, peremptory strikes and other issues relating to jury selection. An opportunity to make Batson challenges was given to the parties and a record made. The jury was selected by the parties, sworn and seated by the Court.

MAI-CR 400.06 was read to the jury.

MAI-CR 402.01 was read to the jury.

The parties presented evidence and closing argument to the jury.

The case was submitted to the jury with instructions from the Court.

The jury retired to deliberate and deliberated for three (3) days. On June 13, 2019, the jury informed the Court that members of the jury were unwilling to follow the Court's instructions and that the jury was deadlocked. Based upon this information from the jury, and Defendant's previous request for a mistrial, the Court declared a mistrial on June 13, 2019, at 10:43 a.m.

IT IS HEREBY ORDERED that a mistrial is declared in this matter.

IT IS FURTHER ORDERED that a new trial is scheduled for Monday, June 17, 2019, at 9:00 a.m.

SO ORDERED:

June 14, 2019

Date



KEVIN DUANE HARRELL, Judge

CERTIFICATE OF SERVICE

I hereby certify that a copy of the foregoing was duly delivered on

JUNE 14, 2019, to:

SARAH ANNE CASTLE, Assistant Prosecuting Attorney
PAIGE NOEL BREMNER, Attorney for Defendant
State Board of Probation & Parole
Jackson County Dept. of Corrections
Missouri Department of Corrections
Criminal Records



Zach Smith
Law Clerk, Division 18

CASE NO. 1716-CR05241-01

STATE OF MISSOURI

ATTY: SARAH CASTLE
DION SANKAR

V

REGINALD JONES JR.

ATTY: PAIGE BREMNER

JUDGE'S CRIMINAL TRIAL MINUTES
DIVISION 18

Crime Charged:	Class	Felony	Misd
Murder 1 st Degree	_____	_____	_____
Armed Criminal Action	_____	_____	_____
Murder 1 st Degree	_____	_____	_____
Armed Criminal Action	_____	_____	_____

Date of Occurrence _____ Place _____ Time _____

Motions in Limine Filed: _____ Heard: _____

Trial of Case Begins at _____

	<u>Done</u>	<u>Date</u>	<u>Time</u>
Evidence of Prior, Persistent, Dangerous or Class Offender Status		N/A	
COURT'S REMARKS: Explain Voir Dire and Strikes; Identify Case, Parties and Attorneys		6-4-19	@ 11:05 AM
Instruction "A" Read to Jury		6-4-19	@ 11:10 AM

JURY PANEL SWORN 6-4-19 @ 11:10 AM

Voir Dire by State 6-4-19 @ 11:15 AM

Voir Dire by Defendant 6-4-19 @ 4:03 PM

Challenges for Cause 6-4-19 @ 8:30 PM

Strikes 6-4-19 @ 9:20 PM

Batson Challenges N/A

Parties' stipulate on record that jury conforms to strikes 6-4-19 @ 9:45 PM

Done Date Time

COURT'S REMARKS: no cell phones, contact clerks,
Court's daily schedule 6-5-19 @ 9:16 AM

JURY SWORN 6-5-19 @ 9:17 AM

Instructions "b" and 1 and 1 read to jury 6-5-19 @ 9:17 AM

State's opening statement 6-5-19 @ 9:25 AM

Defendant's opening statement (unless reserved) 6-5-19 @ 9:51 AM

State's case begins 6-5-19 @ 10:15 AM

State rests 6-7-19 @ 1:30 PM

Mo. For Judgment of Acquittal at Close of State's Evidence 6-7-19 @ 1:32 PM

☒ Overruled _____ Sustained

Defendant's Opening (if reserved)	N/A
Defendant's case begins	6-7-19 @ 2:00 PM
Defendant rests	6-7-19 @ 4:52 PM
Rebuttal evidence	N/A
Surrebuttal evidence	N/A
Mo. For Judgment of Acquittal at Close of all Evidence	6-7-19 @ 4:54 PM
X Overruled _____ Sustained	
Instruction Conference	6-10-19 @ 12:32 PM
Instructions Read to jury	6-10-19 @ 1:20 PM
Arguments by State starts	6-10-19 @ 2:13 PM
Arguments by Defendant starts	6-10-19 @ 3:00 PM
Arguments by State continues	6-10-19 @ 4:01 PM
Jury in recess for deliberation	6-10-19 @ 4:14 PM
Hammer instruction given	<u>Done</u> <u>Date</u> <u>Time</u>
Verdict of jury –	6-13-19 @ 10:43 AM
Mistrial Declared	Reason JURY DEADLOCKED/JURY UNABLE TO FOLLOW COURT'S INSTRUCTIONS
Poll Jury	Requested _____ Waived _____

Verdict Received, Accepted and Entered _____

Discharge and Comments to Jury _____

Motion for New Trial _____

PSI Ordered Sentencing Date Set _____

Defendant given additional 10 days to file Motion for New Trial _____

A handwritten signature in black ink, reading "Kevin D. Harrell", is centered within a gray rectangular box. The signature is written in a cursive, flowing style.

KEVIN D. HARRELL, Judge



MISSOURI COURT OF APPEALS WESTERN DISTRICT

STATE OF MISSOURI, ex rel.)
REGINALD E. JONES, JR.,)
Relator,)
WD82877)
v.)
THE HONORABLE KEVIN HARRELL,)
Judge, 16th Circuit Court,)
Respondent.)

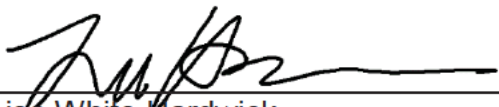
ORDER

Permission to proceed *In Forma Pauperis* is hereby granted.

Permission to file an Amended Petition is hereby granted.

The Relator's Amended Petition for Writ of Prohibition and Suggestions in Support, filed on June 14, 2019, are taken up and considered. The Court, being fully informed, hereby denies petition.

Dated this 14th day of June 2019.



Lisa White Hardwick
Presiding Judge - Writ Division

Thomas H. Newton, J., concurs.

cc:
Hon. Kevin Harrell
Sarah A. Castle
Paige Bremner





Supreme Court of Missouri
en banc

SC97955

State ex rel. Reginald E. Jones, Jr., Relator,
vs.
The Honorable Kevin Harrell, Respondent.

- ☐ Sustained
- ☐ Overruled
- ☐ Denied
- ☐ Taken with Case
- ☐ Sustained Until
- ☒ Other

Order issued: Petition for writ of prohibition denied without prejudice. Relator's motion for emergency stay overruled as moot.

By: *Zel M. Fisher*
Chief Justice

June 20, 2019
Date

CERTIFICATE OF SERVICE

I hereby certify that on June 26, 2019, I electronically filed the foregoing with the Clerk of the Court for the United States District Court for the Western District of Missouri by using the CM/ECF system. I certify that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

/s/ Michael K. Hill